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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM290; Special Conditions No. 25–274–SC]

Special Conditions: Raytheon Aircraft MU–300 Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Raytheon Aircraft Company Model MU–300 airplanes modified by ARINC, Inc. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of a Thommen AD32 Air Data Display Unit (ADDU) which incorporates a Digital Air Data Computer and Altimeter. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is October 1, 2004. Comments must be received on or before November 12, 2004.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM290, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM290. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2799; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that notice and opportunity for prior public comment hereon is unnecessary as the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance; however, we invite interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments received.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 1, 2004, ARINC Inc., 1632 South Murray Blvd. Colorado Springs, CO 80916 applied for a supplemental type certificate (STC) to modify Raytheon Aircraft Company Models MU–300 (Diamond I and IA) airplanes. The Raytheon MU–300 airplanes are small transport category airplanes powered by two turbojet engines, with maximum takeoff weights of up to 14,630 pounds. These airplanes operate with a 2-pilot crew and can seat up to 9 passengers. The proposed modification incorporates the installation of a Dual Thommen AD–32 Air Data Display Units. The information this equipment presents is flight critical. The avionics/electronics and electrical systems to be installed on these airplanes have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, ARINC Inc. must show that the Raytheon Aircraft Company Model MU–300 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A14SW, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.''

The regulations incorporated by reference in Type Certificate No. A14SW include 14 CFR part 25, as amended by Amendments 25–1 through 25–40; §§ 25.1351(d), 25.1353(c)(5), and 25.1450, as amended by Amendment 25–41; §§ 25.1353(c)(6), and 25.255, as amended by Amendment 25–42; § 25.361(b) as amended by Amendment 25–46; and 14 CFR part 36 as amended by Amendment 36–1 through 36–12.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for modified Model MU–300 airplanes, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Raytheon Model MU–300 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should ARINC Inc. apply at a later date for supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The modified Model MU–300 airplanes will incorporate avionics/electrical systems that will perform critical functions. These systems may be vulnerable to HIRF external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Model MU–300 airplanes. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance is shown with either HIRF protection special condition paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths indicated in the following table for the frequency ranges indicated. Both peak and average field strength components from the table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to the Raytheon Aircraft Company Model MU–300 airplanes. Should ARINC, Inc. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of 14 CFR 21.101.

Conclusion

This action affects only certain novel or unusual design features on the Raytheon Aircraft Company Model MU–300 airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplanes.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for Raytheon Aircraft Company Model MU–300 airplanes modified ARINC Inc.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on October 1, 2004.

Kalene C. Yanamura,

Acting Manager, , Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–22947 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM291; Special Conditions No. 25–273–SC]

Special Conditions: Raytheon Aircraft MU–300–10 and 400 Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Raytheon Aircraft Company Model MU–300–10 and 400 airplanes modified by ARINC Inc. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The proposed modification incorporates the installation of a Dual Thommen AD–32 Air Data Display Units. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is November 12, 2004. Comments must be received on or before November 12, 2004.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM291, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM291. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2799; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that notice and opportunity for prior public comment hereon is unnecessary as the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance; however, we invite interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments received.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 1, 2004, ARINC Inc., 1632 South Murray Blvd. Colorado Springs, CO 80916, applied for a supplemental type certificate (STC) to modify Raytheon Aircraft Company Models MU–300–10 (Diamond II) and 400 (Beechjet) airplanes. The Raytheon airplanes are small transport category airplanes powered by two turbojet engines, with maximum takeoff weights of up to 15,780 pounds. These airplanes operate with a 2-pilot crew and can seat up to 9 passengers. The proposed modification incorporates the installation of a Dual Thommen AD–32 Air Data Display Units. The information this equipment presents is flight critical. The avionics/electronics and electrical systems to be installed on these airplanes have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, ARINC Inc. must show that the Raytheon Aircraft Company Model MU–300–10 and 400 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A16SW, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.''

The regulations incorporated by reference in Type Certificate No. A16SW include 14 CFR part 25, as amended by Amendments 25–1 through 25–40; § 25.1351(d), 25.1353(c)(5), and 25.1450 as amended by Amendment 25–41; §§ 25.29, 25.255, and 25.1353(c)(6) as amended by Amendment 25–42; § 25.361(b) as amended by Amendment 25–46; and 14 CFR part 36 as amended by Amendment 36–1 through 36–12.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for modified Model MU–300–10 and 400 airplanes, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Raytheon Model MU–300–10 and 400 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should ARINC Inc. apply at a later date for supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The modified Model MU–300–10 and 400 airplanes will incorporate avionics/electrical systems that will perform critical functions. These systems may be vulnerable to HIRF external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Model MU–300–10 and 400 airplanes. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance is shown with either HIRF protection special condition paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths indicated in the following table for the frequency ranges indicated. Both peak and average field strength components from the table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500kHz–2 MHz	50	50
2MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4GHz–6 GHz	3000	200
6GHz–8 GHz	1000	200
8GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHZ	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to the Raytheon Aircraft Company Model MU–300–10 and 400 airplanes. Should ARINC Inc. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of 14 CFR 21.101.

Conclusion

This action affects only certain novel or unusual design features on the Raytheon Aircraft Company Model MU–300–10 and 400 airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplanes.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for Raytheon Aircraft Company Model MU–300–10 and 400 airplanes modified by ARINC Inc.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on October 1, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–22946 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–13–AD; Amendment 39–13817; AD 2004–20–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4–600, A300 B4–600R, A300 F4–600R Series Airplanes, and A300 C4–605R Variant F Airplanes (Collectively Called A300–600); and Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300 B2 and B4 series airplanes; Model A300 B4–600, A300 B4–600R, A300 F4–600R series airplanes, and A300 C4–605R Variant F airplanes (collectively called A300–600); and Model A310 series airplanes. This amendment requires a detailed inspection of certain pulleys and control cables in the rear fuselage for corrosion and damage; and corrective action, if necessary. This action is necessary to detect and correct frayed or corroded control cables for the elevator and rudder, which could result in a ruptured control cable, and possible reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 17, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 17, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300 B2 and A300 B4; Model A300 B4–600, B4–600R, C4–605R Variant F, and F4–600R (collectively called A300–600); and Model A310 series airplanes; was published in the **Federal Register** on May 7, 2004 (69 FR 25511). That action proposed to require a detailed inspection of certain pulleys and control cables in the rear fuselage for corrosion and damage; and corrective action, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request To Give Credit for Actions Done Previously

One commenter requests that we revise the proposed AD to give credit for actions done previously according to the original issue of Airbus Service Bulletin A300–27A0197, including Appendix 01, dated August 8, 2002. (The proposed AD refers to Airbus Service Bulletin A300–27A0197, Revision 01, including Appendix 01, dated February 26, 2003; as the appropriate source of service information for doing the proposed actions on Model A300 B2 and A300 B4 series airplanes.) The commenter notes that the Accomplishment Instructions in Revision 01 of the service bulletin are unchanged from those in the original issue of the service bulletin.

We concur. We have reviewed the original issue of Airbus Service Bulletin A300–27A0197 and concur that the Accomplishment Instructions are the same as those in Revision 01. We have added a new paragraph (c) to this final rule (and re-identified subsequent paragraphs accordingly) to give credit for actions done per the original issue of Airbus Service Bulletin A300–27A0197.

Explanation of Additional Change

We have revised the applicability statement of this final rule to identify model designations as published in the most recent type certificate data sheet for the affected models.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Interim Action

We consider this AD interim action. If final action is later identified, we may consider further rulemaking then.

Cost Impact

We estimate that 174 airplanes of U.S. registry will be affected by this AD, and that it will take approximately 1 work hour per airplane to accomplish the required inspection. The average labor rate is $65 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $11,310, or $65 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–20–12 Airbus: Amendment 39–13817. Docket 2003–NM–13–AD.

Applicability: All Model A300 B2 and B4 series airplanes; Model A300 B4–600, A300 B4–600R, A300 F4–600R series airplanes, and A300 C4–605R Variant F airplanes (collectively called A300–600); and Model A310 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct frayed or corroded control cables for the elevator and rudder, which could result in a ruptured control cable, and possible reduced controllability of the airplane, accomplish the following:

Definitions

(a) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:

(1) For Model A300 B2 and A300 B4 series airplanes: Airbus Service Bulletin A300–27A0197, Revision 01, including Appendix 01, dated February 26, 2003;

(2) For Model A300 B4–600, A300 B4–600R, A300 F4–600R series airplanes; and A300 C4–605R Variant F airplanes (collectively called A300–600): Airbus Service Bulletin A300–27A6051, including Appendix 01, dated August 8, 2002; and

(3) For Model A310 series airplanes: Airbus Service Bulletin A310–27A2098, including Appendix 01, dated August 8, 2002.

(b) In this AD, the phrase ''date of airworthiness certification'' means the date of issuance of the original Airworthiness Certificate or the original Export Certificate of Airworthiness, whichever occurs first.

(c) For Model A300 B2 and A300 B4 series airplanes: Actions accomplished before the effective date of this AD according to Airbus Service Bulletin A300–27A0197, including Appendix 01, dated August 8, 2002; are acceptable for compliance with the corresponding actions required by this AD.

Inspection and Corrective Action

(d) At the applicable time in paragraph (d)(1), (d)(2), (d)(3), or (d)(4) of this AD, do a detailed inspection for corrosion and damage (*e.g.,* frayed or broken wires) of the pulleys and cables of the rudder, elevator, trimmable horizontal stabilizer, and rudder trim control located at the rear of the fuselage; including any applicable testing and lubrication following the inspection. If any corrosion or damage is found that is outside the limits specified in the service bulletin, prior to further flight, replace the affected cable with a new cable; including any applicable testing and lubrication following the replacement. Accomplish all the actions in accordance with the applicable service bulletin.

(1) For airplanes that have accumulated, as of the effective date of this AD, less than 20,000 total flight hours and less than 10 years since the date of airworthiness certification: Inspect at the later of the times specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this AD.

(i) Prior to the accumulation of 20,000 total flight hours, or within 10 years since the date of airworthiness certification, whichever occurs earliest.

(ii) Within 1,800 flight hours after the effective date of this AD.

(2) For airplanes that have accumulated, as of the effective date of this AD, either 20,000 or more total flight hours or more than 10 years since the date of airworthiness certification, but less than 25,000 total flight hours and 13 years since the date of airworthiness certification: Inspect at the later of the times specified in paragraphs (d)(2)(i) and (d)(2)(ii) of this AD.

(i) Prior to the accumulation of 25,000 total flight hours, or within 13 years since the date of airworthiness certification, whichever occurs earliest.

(ii) Within 1,800 flight hours after the effective date of this AD.

(3) For airplanes that have accumulated, as of the effective date of this AD, either 25,000 or more total flight hours or more than 13 years since the date of airworthiness certification, but less than 30,000 total flight hours and 16 years since the date of airworthiness certification: Inspect at the later of the times specified in paragraphs (d)(3)(i) and (d)(3)(ii) of this AD.

(i) Prior to the accumulation of 30,000 total flight hours, or within 16 years since the date of airworthiness certification, whichever occurs earliest.

(ii) Within 1,200 flight hours after the effective date of this AD.

(4) For airplanes that have accumulated, as of the effective date of this AD, either 30,000 or more total flight hours or more than 16 years since the date of airworthiness certification: Inspect within 600 flight hours after the effective date of this AD.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Reporting

(e) Submit a report of the findings (both positive and negative) of the inspection required by paragraph (d) of this AD to Airbus, Customer Services Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; Attn: AI/SE–D32 Technical Data and Documentation Services, or fax: (+33) 5 61 93 28 06. Send the report at the applicable time specified in paragraph (e)(1) or (e)(2) of this AD. The Inspection Record Sheet in Appendix 01 of the applicable service bulletin may be used. Include the inspection results, a description of any discrepancy found, the airplane serial number, the number of landings and flight hours on the airplane, the service bulletin number, and the date of inspection. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the inspection is done after the effective date of this AD: Submit the report within 60 days after the inspection.

(2) If the inspection was done prior to the effective date of this AD: Submit the report within 60 days after the effective date of this AD.

Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(g) Unless otherwise specified in this AD, the actions must be done in accordance with Airbus Service Bulletin A300–27A0197, Revision 01, including Appendix 01, dated February 26, 2003; Airbus Service Bulletin A300–27A6051, including Appendix 01, dated August 8, 2002; and Airbus Service Bulletin A310–27A2098, including Appendix 01, dated August 8, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Note 2: The subject of this AD is addressed in French airworthiness directive 2002–608(B) R1, dated January 8, 2003.

Effective Date

(h) This amendment becomes effective on November 17, 2004.

Issued in Renton, Washington, on September 29, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–22470 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18602; Directorate Identifier 2003–NM–160–AD; Amendment 39–13816; AD 2004–20–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; and Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4–605R Variant F Airplanes (Collectively Called A300–600)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Model A300 B2 and B4 series airplanes; and certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes; and Model C4–605R Variant F airplanes (collectively called A300–600). This AD requires an inspection of the skin panels of the wing slats for damage and certain repairs, and applicable related investigative/corrective actions if necessary. This AD is prompted by the results of an engineering evaluation that revealed that several repairs and some allowable damage limits specified in the structural repair manuals do not provide adequate static and/or fatigue strength for repaired wing slats. We are issuing this AD to find and fix previously done repairs of the wing slats that have inadequate static and/or fatigue strength, which, if not corrected, could result in loss of the slats and consequent reduced controllability of the airplane.

DATES: This AD becomes effective November 17, 2004.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of November 17, 2004.

ADDRESSES: For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. You can examine this information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical information:* Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

Plain language information: Marcia Walters, *marcia.walters@faa.gov.*

Examining the Docket

The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for all Airbus Model A300 B2 and B4 series airplanes; and certain Airbus Model A300 B4–600, B4–600R, C4–605R Variant F, and F4–600R (collectively called A300–600) series airplanes. The proposed AD was published in the **Federal Register** on July 15, 2004 (69 FR 42368), to require an inspection of the skin panels of the wing slats for damage and certain repairs, and applicable related investigative/corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been submitted on the proposed AD or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Explanation of Change to Applicability

We have revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Costs of Compliance

This AD will affect about 120 airplanes of U.S. registry. The actions will take about 3 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $23,400, or $195 per airplane.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2004–20–11 Airbus: Amendment 39–13816. Docket No. FAA–2004–18602; Directorate Identifier 2003–NM–160–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 17, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all airplanes, certificated in any category, as identified in in Table 1 of this AD.

TABLE 1.—APPLICABILITY

Model	Serial nos.
A300 B2 and B4 series airplanes.	All.
A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600).	796 and earlier.

Unsafe Condition

(d) This AD was prompted by the results of an engineering evaluation that revealed that several repairs and some allowable damage limits specified in the structural repair manuals do not provide adequate static and/or fatigue strength for repaired wing slats. We are issuing this AD to find and fix previously done repairs of the wing slats that have inadequate static and/or fatigue strength, which, if not corrected, could result in loss of the slats and consequent reduced controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Service Bulletins

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the applicable service bulletin listed in Table 2 of this AD.

TABLE 2.—SERVICE BULLETINS

For model	Airbus service bulletin
(1) A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600).	A300–57–6092, Revision 02, dated November 21, 2002.
(2) A300 B2 and B4 series airplanes	A300–57–0238, Revision 02, dated November 21, 2002.

Inspection and Related Investigative/Corrective Actions

(g) Within 18 months or 1,500 flight cycles from the effective date of this AD, whichever occurs first: Do a detailed inspection of the skin panels of the wing slats for damage and certain repairs, and do all applicable related investigative/corrective actions, by accomplishing all the actions in the applicable service bulletin. Do the actions in accordance with the service bulletin, except as required by paragraphs (h) and (i) of this AD. Do any related investigative/corrective action before further flight.

Note 1: For the purposes of this AD, a detailed inspection is ''an intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Repair

(h) If any damage is detected during the inspection required by paragraph (g) of this AD, and the service bulletin recommends contacting Airbus for appropriate action: Before further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

(i) If any repair that has a specific Airbus approval other than a Repair Approval Sheet signed by the DGAC (or its delegated agent) is found during the inspection required by paragraph (g) of this AD, and the service bulletin specifies that the related investigative action is not necessary: Before further flight, do the applicable related investigative/corrective actions required by paragraph (g) of this AD.

(j) Where there are differences between this AD and the service bulletin, the AD prevails.

Alternative Methods of Compliance (AMOCs)

(k) The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(l) French airworthiness directive 2003–086(B), effective March 15, 2003, also addresses the subject of this AD.

Material Incorporated by Reference

(m) You must use Airbus Service Bulletin A300–57–0238, Revision 02, dated November 21, 2002; or Airbus Service Bulletin A300–57–6092, Revision 02, dated November 21, 2002; as applicable; unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC.

Issued in Renton, Washington, on September 29, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–22469 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–85–AD; Amendment 39–13818; AD 2004–20–13]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–135 and EMB–145 series airplanes, that requires inspection of the housings of the main landing gear (MLG) leg strut bushings, and related investigative and corrective actions, and other specified actions. The actions specified by this AD are intended to prevent corrosion of the housings of the MLG leg strut bushings and consequent failure of the MLG. This action is

intended to address the identified unsafe condition.

DATES: Effective November 17, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of November 17, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer; International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–135 and EMB–145 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on July 22, 2004 (69 FR 43777). That action proposed to require inspection of the housings of the main landing gear (MLG) leg strut bushings, related investigative and corrective actions, and other specified actions.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

We estimate that 75 airplanes of U.S. registry will be affected by this proposed AD.

It will take approximately 14 work hours per airplane to accomplish the inspection of the bushing housings for corrosion, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the inspection on U.S. operators is estimated to be $68,250, or $910 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–20–13 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–13818. Docket 2003–NM–85–AD.

Applicability: Model EMB–135 and EMB–145 series airplanes, certificated in any category, equipped with a main landing gear (MLG) leg strut having a part number (P/N) and serial number (S/N) listed in the table under the heading ''Affected component'' in paragraph 1.B., ''Effectivity,'' of EMBRAER Service Bulletin 145–32–0066, Change 03, dated April 19, 2004.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the housings of the main landing gear (MLG) leg strut bushings and consequent failure of the MLG, accomplish the following:

Inspection and Investigative and Corrective Actions

(a) Within 5,500 flight hours after the effective date of this AD, perform a detailed inspection of the housings of the MLG leg strut bushings for corrosion per the Accomplishment Instructions of EMBRAER Service Bulletin 145–32–0066, Change 03, dated April 19, 2004.

(1) If no corrosion is found, before further flight, do all applicable actions in and per the Accomplishment Instructions of the service bulletin.

(2) If any corrosion is found, before further flight, do all applicable investigative and corrective actions in and per the Accomplishment Instructions of the service bulletin.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Note 2: EMBRAER Service Bulletin 145–32–0066, Change 03, dated April 19, 2004, refers to Embraer Liebherr Equipamentos do Brasil S.A. (ELEB) Service Bulletin 2309–2006–32–01, Revision 03, dated April 19, 2004, as an additional source of service information for the inspection and repair of the MLG leg strut bushings. The ELEB service bulletin is included within the EMBRAER service bulletin.

Inspections Accomplished per Previous Issue of Service Bulletin

(b) Inspections and related investigative and corrective actions, accomplished before the effective date of this AD per EMBRAER Service Bulletin 145–32–0066, dated January 8, 2002; Change 01, dated August 15, 2002;

or Change 02, dated February 26, 2004; are considered acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(d) Unless otherwise specified in this AD, the actions must be done in accordance with EMBRAER Service Bulletin 145–32–0066, Change 03, dated April 19, 2004. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 2002–12–01, effective January 6, 2003.

Effective Date

(e) This amendment becomes effective on November 17, 2004.

Issued in Renton, Washington, on September 30, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–22561 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–294–AD; Amendment 39–13820; AD 2004–20–15]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Dornier Model 328–100 series airplanes, that currently requires certain revisions to the airplane flight manual, replacement of certain de-icing boots in the air intake duct assemblies of the engine with re-designed units, repetitive inspections of the boots to find discrepancies, and corrective action if necessary. This amendment also requires modification of the engine air inlet de-icing system. This action extends the repetitive inspection interval required by the existing AD, and adds repetitive debonding/delamination and leakage inspections of the de-icing boots, and corrective action if necessary. Initiation of the extended repetitive inspections and new repetitive inspections ends the repetitive inspections required by the existing AD. The actions specified by this AD are intended to prevent engine malfunction due to failure of the engine air inlet de-icing system, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 17, 2004.

The incorporation by reference of certain publications, as listed in the regulations, is approved by the Director of the Federal Register as of November 17, 2004.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of April 6, 1995 (60 FR 15037, March 22, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from AvCraft Aerospace GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–04–51, amendment 39–9179 (60 FR 15037, March 22, 1995), which is applicable to all Dornier Model 328–100 series airplanes, was published in the **Federal Register** on April 1, 2004 (69 FR 17097). The action proposed to continue to require the revisions to the AFM, replacement of certain de-icing boots in the air intake duct assemblies of the engine with re-designed units, and repetitive inspections of the boots to find discrepancies, and corrective action if necessary. The action also would require modification of the engine air inlet de-icing system, and would add a new AFM revision which changes the compliance time for the functional test required by the existing AD. The proposed action would extend the repetitive inspection interval required by the existing AD, and would add repetitive debonding/delamination and leakage inspections of the de-icing boots, and corrective action if necessary. Initiation of the extended repetitive inspections and new repetitive inspections would end the repetitive inspections required by the existing AD.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been submitted in response to the proposed AD or on the determination of the cost to the public.

Conclusion

We have determined that air safety and the public interest require the adoption of the AD as proposed.

Clarification of Inspection

We have updated the definition of the detailed inspection in Note 1 of the AD to reflect our current definition.

Cost Impact

There are about 53 airplanes of U.S. registry that will be affected by this AD.

The AFM revision currently required by AD 95–04–51 takes about 1 work hour per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required AFM revision is estimated to be $65 per airplane.

The inspections currently required by AD 95–04–51 take about 1 work hour per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required inspections is estimated to be $65 per airplane, per inspection cycle.

The replacement currently required by AD 95–04–51 takes about 5 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Required parts will cost about $55,000 per airplane. Based on these figures, the cost impact of the currently required replacement is estimated to be $55,325 per airplane.

The modification required in this AD action will take about 10 work hours per

airplane to accomplish, at an average labor rate of $65 per work hour. Required parts will be free of charge. Based on these figures, the cost impact of the required modification on U.S. operators is estimated to be $34,450, or $650 per airplane.

The inspection/debonding/delamination and leakage inspection required in this AD action will take about 1 work hour per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $3,445, or $65 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ''**ADDRESSES.**''

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–9179 (60 FR 15037, March 22, 1995), and by adding a new airworthiness directive (AD), amendment 39–13820, to read as follows:

2004–20–15 Fairchild Dornier Gmbh (Formerly Dornier Luftfahrt GmbH): Amendment 39–13820. Docket 2002–NM–294–AD. Supersedes AD 95–04–51, Amendment 39–9179.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine malfunction due to failure of the engine air inlet de-icing system, which could result in reduced controllability of the airplane, accomplish the following:

Restatement of Certain Requirements of AD 95–04–01

AFM Revision

(a) For all airplanes: Within 24 hours after April 6, 1995 (the effective date of AD 95–04–51, amendment 39–9179), accomplish paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by inserting the following limitation in the AFM. This may be accomplished by inserting a copy of this AD in the AFM.

''During flight, if the 'ENG DEICE FAIL' electronic indication and caution advisory system (EICAS) annunciation activates for either engine, flight into known or forecast icing conditions is prohibited.''

(2) Revise the Abnormal Procedures Section of the FAA-approved AFM by removing page 4, dated September 1, 1994, of section 04–12–00, and replacing it with the following. This may be accomplished by inserting a copy of this AD in the AFM.

''1. Icing Conditions—Exit immediately. If unable, land at nearest suitable airport.''

(3) Revise the Limitations Section of the FAA-approved AFM to include the following functional test. This may be accomplished by inserting a copy of this AD in the AFM. Continue to do the functional test until the AFM revision required by paragraph (e) of this AD is done.

''Accomplish the following test at the applicable time specified as follows:

For airplanes equipped with air intake duct assemblies having de-icing boots with part numbers (P/Ns) 29S–5D5240–21, –23, and –25: As of 24 hours after the effective date of AD 95–04–51, accomplish the functional test prior to each flight.

For airplanes equipped with air intake duct assemblies having de-icing boots with P/Ns 29S–5D5240–211 (inlet lip), –231 (bypass duct), and –251 (aft ramp duct): Accomplish the functional test within 24 hours after the effective date of AD 95–04–51, and thereafter at daily intervals.

Perform a functional test of the de-icing system of the air intake ducts of the left and right engines to determine the condition of the system, in accordance with the procedures specified below. Flight crew or maintenance personnel shall perform this test.

Functional Test of the De-Icing System

With engines running at idle power, display and monitor the 'ICE PROTECT' system page of the electronic indication and caution advisory system (EICAS), select left and right 'ENGINE INTAKE' pushbuttons in ('ON'), for a minimum of 60 seconds. Monitor system page for normal indications of one complete boot inflation and deflation cycle. Monitor EICAS for normal messages, and absence of 'ENG DEICE FAIL' caution.

After 60 seconds and observation of one complete inflation/deflation cycle, release 'ENGINE INTAKE' pushbuttons to out ('OFF') position, confirm absence of system page and EICAS cautions, and deselect 'ICE PROTECT' system page. At completion of check, 'ENGINE INTAKE' pushbuttons may be turned back on if required for departure.

If any EICAS 'ENG DEICE FAIL' annunciation is observed, or if system normal inflate and deflate cycling is not observed: The system shall be considered inoperative. Prior to further flight, the detailed visual and tactile inspections required by paragraph (b) of AD 95–04–51 must be accomplished.

If no discrepancy with the de-icing boots is found during these inspections, the de-icing system may be inoperative for a period of time not to exceed that specified in the DO–328 Master Minimum Equipment List (MMEL). Flight into known or forecast icing conditions is prohibited.''

Repetitive Inspections/Corrective Action

(b) For airplanes equipped with air intake duct assemblies having de-icing boots with part numbers (P/N) 29S–5D5240–21, –23, and –25: Accomplish paragraphs (b)(1) and (b)(2) of this AD at the times specified in those paragraphs.

(1) Within 24 hours after April 6, 1995: Perform a detailed inspection and a tactile inspection of the de-icing boots in the air intake ducts on the engines to find flat spots, softness, or other discrepancies, and to ensure that the edges of the de-icing boots are sealed properly, in accordance with Dornier Service Bulletin SB–328–30–020, dated March 17, 1994.

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate.

Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

(i) If no discrepancies are found and the edges of the de-icing boots are sealed properly (no debonding between the boot and the intake duct), repeat the detailed and tactile inspections required by paragraph (b)(1) of this AD thereafter at daily intervals until accomplishment of the modification required by paragraph (f) of this AD.

(ii) If any discrepancy is found, or if any edge of a de-icing boot is sealed improperly (debonding between the boots and the intake duct), prior to further flight, replace all three de-icing boots having P/Ns 29S–5D5240–21, –23, and –25, with three new units having P/Ns 29S–5D5240–211, –231, and –251, in accordance with the procedures specified in Dornier Alert Service Bulletin ASB–328–71–006, Revision 1, dated February 16, 1995.

(2) Within 5 days after April 6, 1995, replace all three de-icing boots having P/Ns 29S–5D5240–21, –23, and –25, with three new units having P/Ns 29S–5D5240–211, –231, and –251, in accordance with Dornier Alert Service Bulletin ASB–328–71–006, Revision 1, dated February 16, 1995. Following such replacement, perform the detailed and tactile inspections and the functional tests required by paragraphs (c) and (e) of this AD, respectively, in accordance with the times and procedures specified in those paragraphs.

(c) For airplanes equipped with air intake duct assemblies having de-icing boots with P/Ns 29S–5D5240–211, –231, and –251: Within 7 days after April 6, 1995, perform a detailed inspection and a tactile inspection of the de-icing boots in the air intake ducts on the engines to find flat spots, softness, or other discrepancies, and to ensure that the edges of the de-icing boots are sealed properly, in accordance with the procedures specified in Dornier Service Bulletin SB–328–30–020, dated March 17, 1994.

(1) If no discrepancies are found and the edges of the de-icing boots are sealed properly (no debonding between the boot and the intake duct): Repeat the detailed and tactile inspections required by paragraph (c) of this AD thereafter at intervals not to exceed 7 days until accomplishment of the modification required by paragraph (f) of this AD.

(2) If any discrepancy is found, or if any edge of a de-icing boot is sealed improperly (debonding between the boots and the intake duct): Prior to further flight, replace all three de-icing boots with three new units having P/Ns 29S–5D5240–211, –231, and –251, in accordance with Dornier Alert Service Bulletin ASB–328–71–006, Revision 1, dated February 16, 1995.

Parts Installation

(d) As of April 6, 1995, no de-icing boot having P/N 29S–5D5240–21, –23, or –25 shall be installed on any airplane.

New Requirements of This AD

AFM Revision

(e) Within 24 hours after the effective date of this AD: Revise the Limitations Section of the AFM to include the following functional test. This may be accomplished by inserting a copy of this AD into the AFM. Accomplishment of this paragraph ends the requirements of paragraph (a)(3) of this AD, and the AFM revision required by that paragraph may be removed from the AFM.

''Accomplish the following test within 24 hours after the effective date of this AD. Repeat the test thereafter at daily intervals.

Perform a functional test of the de-icing system of the air intake ducts of the left and right engines to determine the condition of the system, in accordance with the procedures specified below. Flight crew or maintenance personnel shall perform this test.

Functional Test of the De-Icing System

With engines running at idle power, display and monitor the 'ICE PROTECT' system page of the electronic indication and caution advisory system (EICAS), select left and right 'ENGINE INTAKE' pushbuttons in ('ON'), for a minimum of 60 seconds. Monitor system page for normal indications of one complete boot inflation and deflation cycle. Monitor EICAS for normal messages, and absence of 'ENG DEICE FAIL' caution.

After 60 seconds and observation of one complete inflation/deflation cycle, release 'ENGINE INTAKE' pushbuttons to out ('OFF') position, confirm absence of system page and EICAS cautions, and deselect ''ICE PROTECT' system page. At completion of check, ''ENGINE INTAKE' pushbuttons may be turned back on if required for departure.

If any EICAS 'ENG DEICE FAIL' annunciation is observed, or if system normal inflate and deflate cycling is not observed: The system shall be considered inoperative. Prior to further flight, the detailed inspections required by paragraph (g) of this AD must be accomplished.

If no discrepancy with the de-icing boots is found during these inspections, the de-icing system may be inoperative for a period of time not to exceed that specified in the DO–328 Master Minimum Equipment List (MMEL). Flight into known or forecast icing conditions is prohibited.''

Modification of the Engine Air Intake De-icing System

(f) Within 60 flight hours after the effective date of this AD: Modify the engine air inlet de-icing system (including a one-time detailed inspection and a debonding/delamination and leakage inspection) by doing all the actions (including any applicable corrective action) per the Accomplishment Instructions of Dornier Service Bulletin SB–328–71–125, Revision 3; and by doing all the actions per the Accomplishment Instructions of Dornier Service Bulletin SB–328–71–122, Revision 1; both dated May 10, 1999. Do any applicable corrective action before further flight per the applicable service bulletin.

Note 2: The de-icing boots approved for installation on the modified engine inlet assembly are specified in paragraph 3., ''Material Information,'' of the Accomplishment Instructions of Dornier Service Bulletin SB–328–30–432, dated April 26, 2002.

Note 3: Dornier Service Bulletin SB–328–71–122, Revision 1, dated May 10, 1999, references Westland Aerospace Limited Service Bulletin SB–WAL328–71–122, dated September 25, 1995, as an additional source of service information for modification of the air intake ducts; and Dornier Service Bulletin SB–328–71–125, Revision 3, dated May 10, 1999, references Westland Aerospace Limited Service Bulletin SB–WAL328–71–125, Revision 1, dated September 25, 1995, as an additional source of service information for installation of the cover plate of the bypass duct outlet.

Repetitive Inspections

(g) Within 60 flight hours after accomplishment of paragraph (f) of this AD: Do a detailed inspection of the engine air inlet de-icing boots to find discrepancies (including flat or soft spots in concave sections, defects on the de-icing boots, or improper sealing), per paragraph 2.B.1. of the Accomplishment Instructions of Dornier Service Bulletin SB–328–30–432, dated April 26, 2002. Do any applicable corrective action before further flight per the service bulletin. Repeat the inspection thereafter at intervals not to exceed 60 flight hours.

(h) Within 400 flight hours after accomplishment of paragraph (f) of this AD: Do a debonding/delamination and leakage inspection of the engine air inlet de-icing boots by doing all the applicable actions per the Accomplishment Instructions of Dornier Service Bulletin SB–328–30–432, dated April 26, 2002. Do any applicable corrective action before further flight per the service bulletin. Repeat the inspection thereafter at intervals not to exceed 400 flight hours.

(i) Initiation of the repetitive inspections required by paragraphs (g) and (h) of this AD terminates the repetitive inspections required by paragraphs (b) and (c) of this AD.

No Reporting Required

(j) Where Dornier Service Bulletin SB–328–30–432, dated April 26, 2002, describes procedures for completing a reporting sheet with inspection results, this AD does not require that action.

Alternative Methods of Compliance

(k)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

(2) Alternative methods of compliance, approved previously in accordance with AD 95–04–51, amendment 39–9179, are not considered to be approved as alternative methods of compliance with this AD.

Incorporation by Reference

(l) Unless otherwise specified in this AD, the actions shall be done in accordance with the service bulletins listed in Table 1 of this AD, as applicable:

TABLE 1.—INCORPORATION BY REFERENCE

Service bulletin	Revision	Date
Dornier Alert Service Bulletin ASB–328–71–006	1	February 16, 1995.
Dornier Service Bulletin SB–328–30–020	Original	March 17, 1994.
Dornier Service Bulletin SB–328–30–432	Original	April 26, 2002.
Dornier Service Bulletin SB–328–71–122	1	May 10, 1999.
Dornier Service Bulletin SB–328–71–125	3	May 10, 1999.

(1) The incorporation by reference of the service bulletins listed in Table 2 of this AD is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51:

TABLE 2.—NEW SERVICE BULLETINS FOR INCORPORATION BY REFERENCE

Service bulletin	Revision	Date
Dornier Service Bulletin SB–328–30–432	Original	April 26, 2002.
Dornier Service Bulletin SB–328–71–122	1	May 10, 1999.
Dornier Service Bulletin SB–328–71–125	3	May 10, 1999.

(2) The incorporation by reference of the service bulletins listed in Table 3 of this AD was approved previously by the Director of the Federal Register as of April 6, 1995 (60 FR 15037, March 22, 1995):

TABLE 3.—SERVICE BULLETINS PREVIOUSLY INCORPORATED BY REFERENCE

Service bulletin	Revision	Date
Dornier Alert Service Bulletin ASB–328–71–006	1	February 16, 1995.
Dornier Service Bulletin SB–328–30–020	Original	March 17, 1994.

(3) Copies may be obtained from AvCraft Aerospace GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Note 4: The subject of this AD is addressed in German airworthiness directives 1995–156/3, dated July 1, 1999; and 2002–256, dated September 5, 2002.

Effective Date

(m) This amendment becomes effective on November 17, 2004.

Issued in Renton, Washington, on September 30, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–22562 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–286–AD; Amendment 39–13821; AD 2004–20–16]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200B, –200C, –200F, –300, –400, –400D, and –400F Series Airplanes; and Model 747SP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes; and Model 747SP series airplanes, that requires repetitive functional tests of the auxiliary power unit (APU) and engine fire shutoff switches and repetitive replacements of the APU and engine fire shutoff switches. The AD also provides an optional terminating action for the repetitive functional tests and replacements. This action is necessary to prevent mineral build-up on the APU and engine fire shutoff switches, which could lead to failure of the switches to discharge fire suppressant in the affected area and could result in an uncontrolled fire that could spread to the strut, wing, or aft body of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 17, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of November 17, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer,

Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6501; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes; and Model 747SP series airplanes, was published in the **Federal Register** on June 23, 2004 (69 FR 34971). That action proposed to require repetitive functional tests of the auxiliary power unit (APU) and engine fire shutoff switches and repetitive replacements of the APU and engine fire shutoff switches. That action also proposed to provide an optional terminating action for the repetitive functional tests and replacements.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Clarification of Summary Language

Since the proposed AD was published we noticed that in the Summary of the proposed AD we referred to ''inspections'' instead of ''functional tests.'' We have corrected the Summary of this AD.

Cost Impact

There are approximately 316 airplanes of the affected design in the worldwide fleet. We estimate that 50 airplanes of U.S. registry will be affected by this AD, and that the average labor rate is $65 per work hour. Table 1 provides the estimated costs for U.S. operators to comply with this AD.

TABLE 1.—ESTIMATED COSTS

Action	Work hours	Cost per airplane	Total cost
Inspection and Functional Test (per test cycle)	10–14 (depending on airplane model)	$650–910	$32,500–45,500

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–20–16 Boeing: Amendment 39–13821. Docket 2002–NM–286–AD.

Applicability: Model 747–200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes; and Model 747SP series airplanes; as listed in Boeing Alert Service Bulletin 747–26A2274, Revision 1, dated January 9, 2003; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent mineral build-up on the auxiliary power unit (APU) and engine fire shutoff switches, which could lead to failure of the switches to discharge fire suppressant in the affected area and could result in an uncontrolled fire that could spread to the strut, wing, or aft body of the airplane, accomplish the following:

Service Bulletin Reference

(a) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Boeing Alert Service Bulletin 747–26A2274, Revision 1, dated January 9, 2003.

Initial and Repetitive Functional Test

(b) At the later of the compliance times specified in paragraphs (b)(1) and (b)(2) of this AD, perform a functional test of the APU and engine fire shutoff switches, in accordance with the service bulletin. Repeat the functional test thereafter at intervals not to exceed 18 months.

(1) Within 18 months since the date of issuance of the original Airworthiness Certificate or the original Export Certificate of Airworthiness.

(2) Within 90 days after the effective date of this AD.

Fire Shutoff Switch Failure

(c) If any fire shutoff switch fails during any functional test required by paragraph (b) or (f) of this AD, before further flight, replace the switch with a new or serviceable switch, in accordance with the service bulletin. Repeat the switch replacement thereafter at intervals not to exceed 36 months.

Replacement

(d) Within 36 months after the effective date of this AD, replace all APU and engine fire shutoff switches that have not been previously replaced per paragraph (c) of this AD with new or serviceable switches, in accordance with the service bulletin. Repeat the switch replacement thereafter at intervals not to exceed 36 months.

Deactivation of Lucas Humidifier

(e) Operators may terminate the repetitive requirements of paragraphs (b), (c), and (d) of this AD by accomplishing the actions in

paragraphs (e)(1) and (e)(2) of this AD, except as provided by paragraph (f) of this AD.

(1) Deactivate the Lucas humidifier, part number (P/N) M01AA0101, M01AB0101, M01AB0102, or M01AB0103, in accordance with the service bulletin.

(2) Before further flight following the deactivation specified in paragraph (e)(1) of this AD, replace all APU and engine fire shutoff switches with new or serviceable switches in accordance with the service bulletin.

Reactivation of Lucas Humidifier

(f) For any airplanes on which Lucas humidifier, P/N M01AA0101, M01AB0101, M01AB0102, or M01AB0103 is reactivated after the effective date of this AD: Do the requirements of paragraphs (f)(1) and (f)(2) of this AD at the times specified in those paragraphs.

(1) Within 18 months after reactivating the humidifier, and thereafter at intervals not to exceed 18 months, do the functional test required by paragraph (b) of this AD.

(2) Within 36 months after reactivating the humidifier, and thereafter at intervals not to exceed 36 months, replace all APU and engine fire shutoff switches that have not been previously replaced per paragraph (c) of this AD. Do the replacements per paragraph (d) of this AD.

Actions Accomplished Per Previous Issue of Service Bulletin

(g) Unless otherwise specified in this AD, actions accomplished before the effective date of this AD per Boeing Alert Service Bulletin 747–26A2274, dated August 29, 2002, are considered acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance

(h) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(i) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–26A2274, Revision 1, dated January 9, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(j) This amendment becomes effective on November 17, 2004.

Issued in Renton, Washington, on September 30, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–22563 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–211–AD; Amendment 39–13819; AD 2004–20–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4 Series Airplanes and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (Collectively Called A300–600) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Airbus Model A300 B4 series airplanes and all Airbus Model A300–600 series airplanes. That AD currently requires a one-time high frequency eddy current inspection to detect cracking of the splice fitting at fuselage frame (FR) 47 between stringers 24 and 25; and corrective actions if necessary. This amendment requires new repetitive inspections of an expanded area and adds airplanes to the applicability in the existing AD. The actions specified by this AD are intended to detect and correct cracking of the splice fitting at fuselage FR 47, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 17, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 17, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2001–03–14, amendment 39–12118 (66 FR 10957, February 21, 2001), was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on August 4, 2004 (69 FR 47035). The proposal is applicable to all Airbus Model A300 series airplanes and all Airbus Model A300–600 series airplanes. The action proposed to require new repetitive high frequency eddy current inspections to detect cracking of an expanded area, and corrective actions, if necessary; and to add airplanes to the applicability in the existing AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Clarification of Service Information Requirements for Paragraph (b) of This AD

In our response to comments in the Preamble of the supplemental NPRM, we stated our intent to revise paragraphs (a), (b), and (c) of the supplemental NPRM to refer to Revision 02 of the referenced Airbus service bulletins as the appropriate sources of service information for accomplishment of the required actions. (Revision 01 of those service bulletins was referenced in the original NPRM for accomplishment of the required actions.) However, while we revised paragraphs (a) and (c) of the supplemental NPRM, we inadvertently omitted the revision to paragraph (b). Therefore, we have revised paragraph (b) of this final rule to reference Revision 02 of Airbus Service Bulletin A300–53–6123 as the appropriate source of service information for the required actions in that paragraph.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change

described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 92 airplanes of U.S. registry that will be affected by this AD.

The inspection of an expanded area that is required in this AD will take approximately 29 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $173,420, or $1,885 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–12118 (66 FR 10957, February 21, 2001), and by adding a new airworthiness directive (AD), amendment 39–13819, to read as follows:

2004–20–14 Airbus: Amendment 39–13819. Docket 2002–NM–211–AD. Supersedes AD 2001–03–14, Amendment 39–12118.

Applicability: All Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes; and all Model A300 B4 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the splice fitting at fuselage frame (FR) 47, which could result in reduced structural integrity of the airplane, accomplish the following:

Repetitive Inspections

(a) For airplanes defined in Airbus Service Bulletin A300–53–0350, Revision 02, dated November 12, 2002: Do a high frequency eddy current (HFEC) inspection to detect cracking of the splice fitting at fuselage FR 47 between stringers 24 and 26 (left- and right-hand sides), at the applicable times specified in paragraph (a)(1) or (a)(2) of this AD. Repeat the inspection thereafter at the earlier of the flight-cycle/flight-hour intervals specified in the applicable column in Table 2 of Figure 1 and Sheet 1 of the Accomplishment Instructions of the service bulletin. Do the inspections in accordance with the service bulletin, excluding Appendix 01.

(1) For airplanes that have accumulated 20,000 or more total flight cycles as of the effective date of this AD: Do the initial inspection at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD:

(i) At the earlier of the flight-cycle/flight-hour intervals after the effective date of this AD, as specified in the applicable column in Table 1 of Figure 1 and Sheet 1 of the Accomplishment Instructions of the service bulletin.

(ii) Within 750 flight cycles or 1,500 flight hours after the effective date of this AD, whichever is first.

(2) For airplanes that have accumulated fewer than 20,000 total flight cycles as of the effective date of this AD: Do the initial inspection at the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) At the earlier of the flight-cycle/flight-hour intervals after the effective date of this AD, as specified in the applicable column in Table 1 of Figure 1 and Sheet 1 of the Accomplishment Instructions of the service bulletin.

(ii) Within 1,800 flight cycles or 3,000 flight hours after the effective date of this AD, whichever is first.

(b) For airplanes defined in Airbus Service Bulletin A300–53–6123, Revision 02, dated November 12, 2002: Do the HFEC inspection required by paragraph (a) of this AD at the applicable times specified in paragraph (b)(1) or (b)(2) of this AD. Repeat the inspection thereafter at the earlier of the flight-cycle/flight-hour intervals specified in the applicable column in Table 2 of Figure 1 and Sheet 1 of the Accomplishment Instructions of the service bulletin. Do the inspections in accordance with the service bulletin, excluding Appendix 01.

(1) For airplanes that have accumulated 10,000 or more total flight cycles as of the effective date of this AD: Do the initial inspection within 750 flight cycles or 1,900 flight hours after the effective date of this AD, whichever is first.

(2) For airplanes that have accumulated fewer than 10,000 total flight cycles as of the effective date of this AD: Do the initial inspection at the later of the times specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this AD.

(i) At the earlier of the flight-cycle/flight-hour intervals after the effective date of this AD, as specified in the applicable column in Table 1 of Figure 1 and Sheet 1 of the Accomplishment Instructions of the service bulletin.

(ii) Within 1,500 flight cycles or 3,800 flight hours after the effective date of this AD, whichever is first.

Repair

(c) Repair any cracking found during any inspection required by this AD before further flight, in accordance with Airbus Service Bulletin A300–53–0350 or A300–53–6123, both Revision 02, both excluding Appendix 01, both dated November 12, 2002; as applicable. Where the service bulletins specify to contact Airbus in case of certain crack findings, this AD requires that a repair be accomplished before further flight in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

Credit for Previous Issues of Airbus Service Bulletin

(d) Accomplishment of the actions before the effective date of this AD in accordance with Airbus Service Bulletin A300–53–0350 or A300–53–6123, Revision 01, dated December 18, 2001; is considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(f) Unless otherwise specified in this AD, the actions shall be done in accordance with Airbus Service Bulletin A300–53–0350, Revision 02, excluding Appendix 01, dated November 12, 2002; and Airbus Service Bulletin A300–53–6123, Revision 02, excluding Appendix 01, dated November 12, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Note 1: The subject of this AD is addressed in French airworthiness directive 2002–184(B), dated April 3, 2002.

Effective Date

(g) This amendment becomes effective on November 17, 2004.

Issued in Renton, Washington, on September 30, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–22564 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsors' Addresses

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect changes of address for Alpharma Inc.; Intervet Inc.; and Vètoquinol N.-A., Inc.

DATES: This rule is effective October 13, 2004.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967; e-mail: *david.newkirk@fda.gov*.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, has informed FDA of a change of address to One Executive Dr., Fort Lee, NJ 07024. Intervet, Inc., P.O. Box 318, 405 State St., Millsboro, DE 19966, has informed FDA of a change of address to 29160 Intervet Lane, P.O. Box 318, Millsboro, DE 19966. Vètoquinol N.-A., Inc., 2000 chemin Georges, Lavaltrie (PQ), Canada J0K 1H0, has informed FDA of a change of address to 2000 chemin Georges, Lavaltrie (PQ), Canada J5T 3S5. Accordingly, the agency is amending the regulations in 21 CFR 510.600 to reflect these changes of sponsors' addresses.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A), because it is a rule of ''particular applicability.'' Therefore, it is not subject to congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

■ 2. Section 510.600 is amended:

a. In the table in paragraph (c)(1) in the entry for ''Alpharma Inc.'', by removing ''P.O. Box 1399,'';

b. In the table in paragraph (c)(1) in the entry for ''Intervet, Inc.'', by removing ''Intervet, Inc., P.O. Box 318, 405 State St.'' and by adding in its place ''Intervet Inc., P.O. Box 318, 29160 Intervet Lane'';

c. In the table in paragraph (c)(1) in the entry for ''Vètoquinol N.-A., Inc.'', by removing ''J0K 1H0'' and by adding in its place ''J5T 3S5'';

d. In the table in paragraph (c)(2) in the entry for ''046573'', by removing ''P.O. Box 1399'';

e. In the table in paragraph (c)(2) in the entry for ''057926'' by removing ''Intervet, Inc., P.O. Box 318, 405 State St.'' and by adding in its place ''Intervet Inc., P.O. Box 318, 29160 Intervet Lane''; and

f. In the table in paragraph (c)(2) in the entry for ''059320'', by removing ''J0K 1H0'' and by adding in its place ''J5T 3S5''.

Dated: September 16, 2004.

Bernadette A. Dunham,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 04–22915 Filed 10–12–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF STATE

22 CFR Part 51

RIN 1400–ZA07

[Public Notice 4859]

Passport Procedures—Amendment to Passport Regulations

AGENCY: State Department.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulation implementing the statutory requirement that both parents consent to issuance of a passport for children under 14 years to require that a statement of consent submitted in support of a minor's application be notarized. The rule will ensure that the individual providing the signature is properly identified.

DATES: The effective date is November 1. The Department will accept comments from the public up to 30 days from November 12, 2004.

ADDRESSES: Written comments should be addressed to: Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, 2100 Pennsylvania Ave., NW., 3rd Floor, Washington, DC 20037. E-mail for comments: *PassportRules@state.gov.*

Persons with access to the internet may also view this notice and provide comment by going to the regulations.gov Web site at: *http://www.regulations.gov/index.cfm.*

FOR FURTHER INFORMATION CONTACT: Sharon Palmer-Royston, Office of Passport Policy, Planning and Advisory Services, Bureau of Consular Affairs, Department of State 202–663–2662; Fax 202–663–2654.

SUPPLEMENTARY INFORMATION: 22 U.S.C. 213 provides that before a U.S. passport can be issued the applicant ''shall subscribe to and submit a written application which shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law.'' Section 236 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Public Law 106–113, 113 Stat. 1501A–420 (22 U.S.C. 213n) (''2-Parent Consent Statute'') provides that the Secretary shall require documentary proof of both parents' or

the legal guardian's consent before issuing passports to children under age 14 ''under penalty of perjury.'' The requirement was added as a measure to prevent the use of the United States passport in international child abduction, and was implemented by Section 51.27(b) of Title 22, Code of Federal Regulations (CFR) (published at 66 Fed. Reg. 29904, June 4, 2001). Section 51.27(b)(2) provides that both parents must execute a passport application on behalf of a minor under age 14 or, if only one parent or a legal guardian executes the application, such parent or guardian must provide documentary evidence that he or she is the sole parent or has sole custody of the child or that he or she has the non-applying parent's or guardian's consent, if applicable, to the issuance of the passport. Subsection 51.27(b)(2)(ii)(B) provides that the applying parent or guardian may provide a written statement of consent from the non-applying parent or guardian, if applicable, to the issuance of the passport.

Passport Applications of Minors Under Age 14

Since the 2000 implementation of the 2-Parent Consent Statute by 22 CFR 51.27, there have been public comments and expressions of concern regarding the lack of independent verification of the identity of the individual signing the statement of consent.

It has become evident that some parental applicants are providing affidavits that are signed by individuals other than the non-applying parent, despite the provisions of 18 U.S.C. 1544, 1101 and 22 CFR 51.1(g) which provide that individuals providing false information as part of a passport application, whether contemporaneously with the application form or at any other time, are subject to prosecution for passport fraud or perjury under all applicable criminal statutes, including but not limited to 18 U.S.C. 1001, 1541, *et seq.* and 1621. Some applying parents who submit forged consent statements often do so to abduct their child or otherwise interfere with the rights of the non-applying parent. Most, however, are only going on vacation or obtaining the passport against the wishes of the other parent.

This Interim Rule amends Subsection 51.27(b)(2)(ii)(B) to require that the written statement of consent of the non-applying parent be notarized. The purpose of this change is to prevent forgery and to ensure that the individual signing the consent statement submitted with the passport application has been properly identified. This change will substantially reduce the possibility of the submission of false statements of consent. This rule needs to be implemented immediately to strengthen fraud prevention to avoid further instances of the applying parent submitting a false statement of consent and to reduce the possibility of a U.S passport being used in an effort to interfere with the custodial rights of the non-applying parent.

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as an interim rule, with a 30-day provision for post-promulgation public comments, based on the ''good cause'' exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). It is dictated by the necessity of establishing additional controls over the documentation of U.S. citizens who are ages 14 and under, to help prevent the possible misuse of a passport in facilitating international child abduction.

Regulatory Flexibility Act/Executive Order 13272

These changes to the regulations are hereby certified as not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

The Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Public Law 104–4; 109 Stat. 48; 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule does not result in any such expenditure nor will it significantly or uniquely affect small governments.

Executive Order 13132: Federalism

The Department finds that this regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does the rule have federalism implications warranting the application of Executive Order No. 12372 and No. 13132.

Executive Order 12866: Regulatory Review

This rule is exempt from E.O. 12866, but the Department has reviewed the rule to ensure consistency with the objectives of the Executive Order and has determined that the regulations do not constitute a significant regulatory action within the meaning of the Executive Order.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the regulation in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

The Paperwork Reduction Act of 1995

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

The Treasury and General Government Appropriations Act of 1999—Assessment of Federal Regulations and Policies on Families

In light of the nature of these regulations and section 654 of the Treasury and General Government Appropriations Act of 1999, Public Law 105–277, 112 Stat. 2681 (1998), the Department has assessed the impact of these proposed regulations on family well being in accordance with section 654(c) of that Act. This rule is intended to promote child and family safety by helping prevent child abduction and international child trafficking.

List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Drug traffic control, Passports and visas.

■ Accordingly, the Department amends 22 CFR Chapter I as follows:

PART 51—[AMENDED]

■ 1. The authority citation for Part 51 continues to read as follows:

Authority: 22 U.S.C. 211a, 213, 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701;

E.O. 11295, 3 CFR, 1966–1970 Comp., p 570; sec. 236, Public Law 106–113, 113 Stat. 1501A–430; 18 U.S.C. 1621(a)(2).

■ 2. Revise § 51.27(b)(2)(iii)(B) to read as follows:

§ 51.27 Minors.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(B) A notarized written statement or notarized affidavit from the non-applying parent or guardian, if applicable, consenting to the issuance of the passport.

* * * * *

Dated: September 23, 2004.

Daniel B. Smith,

Acting Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 04–22937 Filed 10–12–04; 8:45 am]

BILLING CODE 4710–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OGC–2004–0004; FRL–7826–2]

National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: On April 14, 2003, pursuant to section 112 of the Clean Air Act (CAA), the EPA issued national emission standards to control hazardous air pollutants emitted from pushing, quenching, and battery stacks at new and existing coke oven batteries. This action amends the parametric operating limits and associated compliance provisions for capture systems used to control emissions from pushing. This action also amends the requirements for mobile scrubber cars that capture emissions which occur during pushing and travel.

DATES: The direct final rule amendments will be effective on January 11, 2005, unless we receive significant adverse comments by November 12, 2004, or by November 29, 2004 if a public hearing is requested. If such comments are received, we will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn due to adverse comment. Any distinct amendment, paragraph, or section of the final amendments for which we do not receive adverse comment will become effective on January 11, 2005.

ADDRESSES: Submit your comments, identified by Docket ID No. OGC–2004–0004, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Agency Website: *http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- E-mail: *a-and-r-docket@epa.gov.*
- Fax: (202) 566–1741.
- Mail: Proposed Settlement Agreement in *AISI/ACCCI Coke Oven Environmental Task Force* v. *U.S. EPA,* No. 03–1167 (DC Cir.) Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.
- Hand Delivery: Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B102, Washington, DC. 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. OGC–2004–0004. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov websites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other information, such as copyrighted materials, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy form at the docket entitled ''Proposed Settlement Agreement in *AISI/ACCCI Coke Oven Environmental Task Force* v. *U.S. EPA,* No. 03–1167 (DC Cir.),'' Docket ID No. OGC–2004–0004, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Lula Melton, Emission Standards Division, Office of Air Quality Planning and Standards (C439–02), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–2910, fax number (919) 541–3207, e-mail address: *melton.lula@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Categories and entities potentially regulated by this action include:

Category	NAICS code [1]	Examples of regulated entities
Industry	331111, 324199	Coke plants and integrated iron and steel mills.
Federal government		Not affected.

Category	NAICS code [1]	Examples of regulated entities
State/local/tribal government		Not affected.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in § 63.7281 of the national emission standards for hazardous air pollutants (NESHAP) for coke ovens: Pushing, quenching, and battery stacks. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What Should I Consider as I Prepare My Comments for EPA?

Do not submit information containing CBI to EPA through EDOCKET, regulations.gov or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. OGC–2004–0004. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

C. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of today's final amendments is also available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the final amendments will be placed on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

D. What Are the Judicial Review Requirements?

Under section 307(b)(1) of the CAA, judicial review of the final amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by December 13, 2004. Under section 307(d)(7)(B) of the CAA, only an objection to the final amendments that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final amendments may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

E. Why Are We Publishing the Amendments as a Direct Final Rule?

We are publishing the amendments as a direct final rule without prior proposal because we view the amendments as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal for the amendments contained in the direct final rule in the event that significant adverse comments are filed. If we receive any significant adverse comments on one or more distinct amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which provisions will become effective and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule (should we decide to issue a final rule). We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

F. How Is This Document Organized?

The information presented in this preamble is organized as follows:

II. Background

On April 14, 2003 (68 FR 18008), we issued national emission standards for the control of hazardous air pollutants (HAP) from pushing, quenching, and battery stacks at new and existing coke oven batteries (40 CFR part 63, subpart CCCCC). The NESHAP implements section 112(d) of the CAA by requiring all major sources to meet HAP emission standards reflecting application of the maximum achievable control technology (MACT).[1]

After publication of the final rule, the American Iron and Steel Institute (AISI)/American Coke and Coal Chemicals Institute (ACCCI) Coke Oven Environmental Task Force (COETF) filed a petition for review challenging the final standards (*AISI/ACCCI Coke Oven Environmental Task Force* v. *U.S. Environmental Protection Agency,* no. 03–1167, D.C. Cir.). The petitioners raised issues concerning:

- The provisions requiring owners or operators of coke plants having a pushing emission control device to install, operate and maintain devices to monitor daily average fan motor amps, (or volumetric flow rate at the inlet of the control device and maintain daily average volumetric flow rate) at or above minimum levels established during initial performance tests. These provisions are included in 40 CFR 63.7290, 63.7323(c), 63.7326(a)(4),

[1] The final rule should not be confused with the MACT standards for coke oven doors, lids, offtake systems, and charging which are the subject of special statutory provisions (CAA section 112(d)(8), 112(i)(8)). The EPA adopted MACT standards for those emission points in 1993 (58 FR 57898, October 27, 1993), and recently proposed residual risk standards pursuant to CAA section 112(f)(2) for these sources (69 FR 68338, August 9, 2004).

63.7330(d), 63.7331(g) and (h), and 63.7333(d).

• The provisions requiring monthly inspections of pressure sensors, dampers, damper switches and other equipment important to the performance of the total emissions capture system which also require that a facility's operation and maintenance plan include requirements to repair any defect or deficiency in the capture system before the next scheduled inspection. These provisions are included in 40 CFR 63.7300(c)(1).

The EPA and the petitioners anticipate that certain amendments to the final rule will resolve COETF's concerns. These amendments are set out in attachment A to a proposed settlement agreement between EPA and COETF. In accordance with section 113(g) of the CAA, EPA published a notice of the proposed settlement agreement (69 FR 31372, June 3, 2004) and provided a 30-day comment period which ended July 6, 2004. The EPA received no comments on the proposed settlement agreement. Under the terms of the proposed settlement agreement, EPA must submit proposed amendments for publication in the **Federal Register** within 90 days after review of public comments received in response to the notice of the settlement agreement. Within 120 days after the close of the comment period on the proposal, EPA must submit for publication in the **Federal Register** a notice setting forth the Administrator's final decision on the issues covered by the proposal.

Concurrent with development of the proposed settlement agreement, a coke manufacturer constructing a new non-recovery plant noticed a gap in the promulgated rule. The new source is being constructed with a type of emission control system that is not addressed in the final rule. Therefore, the source requested EPA to develop an appropriate emission limit for that control system. In response, we are broadening the applicability of an existing emissions limit to include the control system and are adding appropriate implementation and compliance provisions.

III. Summary of the Final Amendments

A. What Changes Are We Making in Response to the Settlement Agreement?

The petitioners argued that the operating limit in 40 CFR 63.7290(3)(i) of the final rule for capture systems applied to pushing emissions (which requires the plant to maintain the daily average fan motor amperage at or above a certain level) was inappropriate for systems that did not use an electric motor to drive the fan. We agree with the petitioners because there are a few fans that are not powered by an electric motor. In response, we are amending the operating limit in 40 CFR 63.7290(b)(3)(i) to state that the requirement applies to capture systems that use an electric motor to drive the fan. We are adding a new operating limit in 40 CFR 63.7290(b)(3)(ii) that is appropriate for assessing the proper operation of a capture system that does not use an electric motor to drive the fan. The new operating limit requires the owner or operator to maintain the daily average static pressure at the inlet to the control device at an equal or greater vacuum than the level established during the initial performance test, or to maintain the daily average fan revolutions per minute (RPM) at or above the minimum level established during the initial performance test. We also renumbered the existing operating limit for the daily average volumetric flow rate in 40 CFR 63.7290(b)(3)(ii) as 40 CFR 63.7290(b)(3).

We also are adding requirements to the final rule for demonstrating initial and continuous compliance with the new operating limit for daily average static pressure or fan RPM. To establish the operating limit, a new procedure in 40 CFR 63.7323(c)(3) requires that the static pressure at the inlet of the control device or fan RPM during each push sampled for each particulate matter (PM) test run during the performance test be measured and recorded. The operating limit for static pressure is the minimum vacuum recorded during any of the three runs that meets the emission limit. The operating limit for fan RPM is the lowest RPM recorded during any of the three runs that meets the emission limit. To demonstrate initial compliance, a new provision in 40 CFR 63.7326(a)(4) requires that the owner or operator have a record of the static pressure at the inlet of the control device or fan RPM measured during the performance test. To demonstrate continuous compliance, 40 CFR 63.7330(d) requires the owner or operator to monitor the static pressure or the fan RPM at all times according to the requirements in 40 CFR 63.7331(i), which requires a device to measure static pressure at the inlet of the control device or the fan RPM. A new provision in 40 CFR 63.7333(d) requires the owner or operator to maintain the daily average static pressure at the inlet to the control device at an equal or greater vacuum than established during the initial or subsequent performance test, or to maintain the daily average fan RPM at or above the minimum level established during the initial or subsequent performance test. The owner or operator also must check the static pressure or fan RPM at least every 8 hours to verify the daily average static pressure at the inlet to the control device, or the daily average fan RPM, is at or above the required values and to record the results of each check. We also made conforming amendments in each of the affected sections to account for changes in the regulatory citations.

The petitioners also argued that the provision in 40 CFR 63.7300(c)(1), which requires that the operation and maintenance plan include requirements to repair any defect or deficiency in the capture system before the next scheduled inspection, is unreasonable. We agree because there are a few repairs that may require more than 30 days to complete. Therefore, we are replacing the provision to complete all repairs within 30 days after the defect or deficiency is found to allow more time when necessary. If the repairs cannot be completed within 30 days, the owner or operator must estimate the number of days in which repairs can be completed. We developed provisions for two additional situations (*i.e.*, one for repairs that can be made within 60 days and one for repairs that will take longer than 60 days).

If repairs can be completed within 60 days from the date that the problem is discovered, the owner or operator must submit a written notice to the permitting authority within 30 days after the date that the problem is discovered. The notice must contain specific information, including a description of the defect or deficiency, the steps needed to correct the problem, the interim steps needed to mitigate the emissions impact of the defect or deficiency, and an explanation of why the repairs cannot be completed within 30 days from the date that the problem is discovered.

If the repairs cannot be completed within 60 days, the owner or operator must submit a written request to the permitting authority for an extension of time to complete the repairs. The owner or operator must submit this request to the permitting authority within 45 days after the date the defect or deficiency is discovered. The amendments require that this request include the information required for the previous notice, along with a detailed proposed schedule for completing the repairs and a request for approval of the proposed repair schedule. The permitting authority may consider all relevant factors in deciding whether to approved or deny the

request, including feasibility and safety, and may request modifications to the proposed schedule. If the permitting authority approves the request, the approved schedule must provide for completion of repairs as soon as practicable. This new requirement provides flexibility for unforeseen circumstances but also requires accountability for making needed repairs.

B. What Other Changes Are We Making?

A new non-recovery coke plant now under construction will use flat car pushing along with a mobile control system (closed hood capture system vented to a multicyclone) to control PM emissions during pushing and travel to the quench tower. There are no test data for the proposed control system because no such system has been built. Consequently, we cannot develop an alternative emissions limit. However, the existing emission limit of 0.04 pound per ton of coke in 40 CFR 63.7290(a)(4), which applies to mobile scrubber cars that capture emissions during travel, covers a comparable situation. Therefore, we are changing the applicability of the limit from ''mobile scrubber car'' to ''mobile control device.'' Thus, the existing limit will apply to any type of mobile control device applied to pushing emissions that also captures emissions during travel at a new or existing coke oven battery.

While the existing rule contains monitoring provisions for scrubbers, baghouse, and capture systems, it does not include requirements applicable to multicyclones. Therefore, we have added an operating limit to the final rule, along with requirements for demonstrating initial and continuous compliance. Based on information in EPA's 1998 ''Compliance Assurance Monitoring Technical Guidance Document'' (available at *http://www.epa.gov/ttn/emc/cam*), we selected pressure drop as the indicator of proper control device performance. For multicyclones, control efficiency is a function of inlet velocity, and changes in velocity result in changes in pressure drop across the device. If the inlet velocity exceeds a certain level, turbulence becomes excessive and control efficiency decreases. Therefore, the operating limit requires the owner or operator to maintain the pressure drop at or below the level established during the initial performance test. A continuous parameter monitoring system (CPMS) is required to measure and record the pressure drop across the device. We also added rule provisions for establishing an operating limit; demonstrating initial compliance; installing, operating, and maintaining the CPMS; and demonstrating continuous compliance with the parametric operating limit.

IV. Summary of Environmental, Energy, and Economic Impacts

The final rule amendments will have no effect on environmental, energy, or non-air health impacts because none of the changes affect the stringency of the existing emission limits. No costs or economic impacts are associated with the amendments.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is ''significant'' and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866, and is, therefore, not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The costs of the information collection requirements associated with the provisions related to the settlement agreement do not increase the existing burden estimates for the final rule. The OMB has previously approved the information collection requirements contained in the existing rule (40 CFR part 63, subpart CCCCC) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0521, EPA ICR number 1995.02. A copy of the approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR part 63 are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule amendments.

For the purposes of assessing the impacts of today's final amendments on small entities, small entity is defined as: (1) A small business having no more than 1,000 employees, as defined by the Small Business Administration for NAICS codes 331111 and 324199; (2) a government jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and that is not dominant in its field.

After considering the economic impacts of today's final amendments on small entities, the EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small

entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities'' (5 U.S.C. 603 and 604). Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

We believe there will be a positive impact on small entities because the final rule amendments add new compliance provisions to increase flexibility. These changes are voluntary and do not impose new costs. We have, therefore, concluded that today's final rule amendments will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or to the private sector in any 1 year. No new costs are attributable to the final amendments. Thus, the final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA. The EPA has also determined that the final rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the final rule amendments are not subject to section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

The final rule amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected plants are owned or operated by State governments. Thus, Executive Order 13132 does not apply to the final rule amendments.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The final rule amendments do not have tribal implications, as specified in Executive Order 13175, because tribal governments do not own or operate any sources subject to the final rule amendments. Thus, Executive Order 13175 does not apply to the final rule amendments.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant,'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The final rule amendments are not subject to Executive Order 13045 because the final rule (and these amendments) are based on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

These final amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

As noted in the proposed amendments, Section 112(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C 272 note) directs the EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires EPA to provide Congress, through the OMB,

explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The EPA's compliance with section 112(d) of the NTTAA has been addressed in the preamble to the existing rule (68 FR 18025, April 14, 2003). The final rule amendments do not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). The final rule amendments will be effective on January 11, 2005.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 4, 2004.

Michael O. Leavitt,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart CCCCC—[Amended]

■ 2. Section 63.7290 is amended by revising paragraphs (a)(4), (b) introductory text, and (b)(3) and by adding new paragraph (b)(4) to read as follows:

§ 63.7290 What emission limitations must I meet for capture systems and control devices applied to pushing emissions?

(a) * * *

(4) 0.04 lb/ton of coke if a mobile control device that captures emissions during travel is used.

(b) You must meet each operating limit in paragraphs (b)(1) through (4) of this section that applies to you for a new or existing coke oven battery.

* * * * *

(3) For each capture system applied to pushing emissions, you must maintain the daily average volumetric flow rate at the inlet of the control device at or above the minimum level established during the initial performance test; or

(i) For each capture system that uses an electric motor to drive the fan, you must maintain the daily average fan motor amperes at or above the minimum level established during the initial performance test; and

(ii) For each capture system that does not use a fan driven by an electric motor, you must maintain the daily average static pressure at the inlet to the control device at an equal or greater vacuum than the level established during the initial performance test or maintain the daily average fan revolutions per minute (RPM) at or above the minimum level established during the initial performance test.

(4) For each multicyclone, you must maintain the daily average pressure drop at or below the minimum level established during the initial performance test.

■ 3. Section 63.7300 is amended as follows:

■ a. Removing the third (last) sentence in paragraph (c)(1) and adding in its place a new sentence; and

■ b. Adding new paragraphs (c)(1)(i) and (ii).

§ 63.7300 What are my operation and maintenance requirements?

* * * * *

(c) * * *

(1) * * * In the event a defect or deficiency is found in the capture system (during a monthly inspection or between inspections), you must complete repairs within 30 days after the date that the defect or deficiency is discovered except as specified in paragraphs (c)(1)(i) and (ii) of this section.

(i) If you determine that the repairs can be completed within 60 days, you must submit a written notice that must be received by the permitting authority within 30 days after the date that the defect or deficiency is discovered. Your notice must contain a description of the defect or deficiency, the steps needed and taken to correct the problem, the interim steps being taken to mitigate the emissions impact of the defect or deficiency, and an explanation of why the repairs cannot be completed within 30 days. You must then complete the repairs within 60 days after the date that the defect or deficiency is discovered.

(ii) In those rare instances when repairs cannot be completed within 60 days, you must submit a written request for extension of time to complete the repairs. The request must be received by the permitting authority not more than 45 days after the date that the defect or deficiency is discovered. The request must contain all of the information required for the written notice described in paragraph (c)(1)(i) of this section, along with a detailed proposed schedule for completing the repairs and a request for approval of the proposed repair schedule. The permitting authority may consider all relevant factors in deciding whether to approve or deny the request (including feasibility and safety). Each approved schedule must provide for completion of repairs as expeditiously as practicable, and the permitting authority may request modifications to the proposed schedule as part of the approval process.

* * * * *

■ 4. Section 63.7323 is amended as follows:

■ a. Revising paragraph (c);

■ b. Redesignating paragraph (d) as (e);

■ c. Adding new paragraph (d); and

■ d. Revising newly designated paragraph (e) introductory text and revising newly designated paragraph (e)(3).

§ 63.7323 What procedures must I use to establish operating limits?

* * * * *

(c) For a capture system applied to pushing emissions from a coke oven battery, you must establish a site-specific operating limit according to the procedures in paragraphs (c)(1), (2), or (3) of this section.

(1) If you elect the operating limit in § 63.7290(b)(3) for volumetric flow rate, measure and record the total volumetric flow rate at the inlet of the control device during each push sampled for each particulate matter test run. Your operating limit is the lowest volumetric flow rate recorded during any of the three runs that meet the emission limit.

(2) If you elect the operating limit in § 63.7290(b)(3)(i) for fan motor amperes, measure and record the fan motor amperes during each push sampled for each particulate matter test run. Your operating limit is the lowest fan motor amperes recorded during any of the three runs that meet the emission limit.

(3) If you elect the operating limit in § 63.7290(b)(3)(ii) for static pressure or fan RPM, measure and record the static pressure at the inlet of the control device or fan RPM during each push sampled for each particulate matter test

run. Your operating limit for static pressure is the minimum vacuum recorded during any of the three runs that meets the emission limit. Your operating limit for fan RPM is the lowest fan RPM recorded during any of the three runs that meets the emission limit.

(d) For a multicyclone applied to pushing emissions from a coke oven battery, you must establish a site-specific operating limit for pressure drop according to the procedures in paragraphs (d)(1) and (2) of this section.

(1) Using the CPMS required in § 63.7330(f), measure and record the pressure drop for each particulate matter test run during periods of pushing. A minimum of one pressure drop measurement must be obtained for each push.

(2) Compute and record the average pressure drop for each test run. Your operating limit is the highest average pressure drop value recorded during any of the three runs that meet the emission limit.

(e) You may change the operating limit for a venturi scrubber, capture system, or mobile control device that captures emissions during pushing if you meet the requirements in paragraphs (e)(1) through (3) of this section.

* * * * *

(3) Establish revised operating limits according to the applicable procedures in paragraphs (a) through (d) of this section.

■ 5. Section 63.7326 is amended as follows:

■ a. Revising paragraph (a)(1)(iii);

■ b. Revising paragraphs (a)(4)(i) and (a)(4)(ii);

■ c. Adding paragraph (a)(4)(iii); and

■ d. Adding paragraph (a)(5).

§ 63.7326 How do I demonstrate initial compliance with the emission limitations that apply to me?

(a) * * *

(1) * * *

(iii) 0.04 lb/ton of coke if a mobile control device that captures emissions during travel is used.

* * * * *

(4) * * *

(i) If you elect the operating limit in § 63.7290(b)(3) for volumetric flow rate, you have a record of the total volumetric flow rate at the inlet of the control device measured during the performance test in accordance with § 63.7323(c)(1); or

(ii) If you elect the operating limit in § 63.7290(b)(3)(i) for fan motor amperes, you have a record of the fan motor amperes during the performance test in accordance with § 63.7323(c)(2); or

(iii) If you elect the operating limit in § 63.7290(b)(3)(ii) for static pressure or fan RPM, you have a record of the static pressure at the inlet of the control device or fan RPM measured during the performance test in accordance with § 63.7323(c)(3).

(5) For each multicyclone applied to pushing emissions, you have established an appropriate site-specific operating limit and have a record of the pressure drop measured during the performance test in accordance with § 63.7323(d).

* * * * *

■ 6. Section 63.7330 is amended by revising paragraphs (d) and (e) and by adding paragraph (f) to read as follows:

§ 63.7330 What are my monitoring requirements?

* * * * *

(d) For each capture system applied to pushing emissions, you must at all times monitor the volumetric flow rate according to the requirements in § 63.7331(g), the fan motor amperes according to the requirements in § 63.7331(h), or the static pressure or the fan RPM according to the requirements in § 63.7331(i).

(e) For each by-product coke oven battery, you must monitor at all times the opacity of emissions exiting each stack using a COMS according to the requirements in § 63.7331(j).

(f) For each multicyclone applied to pushing emissions, you must monitor at all times the pressure drop using a CPMS according to the requirements in § 63.7331(k).

■ 7. Section 63.7331 is amended as follows:

■ a. Revising paragraphs (g) and (h);

■ b. Redesignating paragraph (i) as (j) and revising newly designated paragraph (j) introductory text;

■ c. Adding new paragraph (i); and

■ d. Adding new paragraph (k).

§ 63.7331 What are the installation, operation, and maintenance requirements for my monitors?

* * * * *

(g) If you elect the operating limit in § 63.7290(b)(3) for a capture system applied to pushing emissions, you must install, operate, and maintain a device to measure the total volumetric flow rate at the inlet of the control device.

(h) If you elect the operating limit in § 63.7290(b)(3)(i) for a capture system applied to pushing emissions, you must install, operate, and maintain a device to measure the fan motor amperes.

(i) If you elect the operating limit in § 63.7290(b)(3)(ii) for a capture system applied to pushing emissions, you must install, operate and maintain a device to measure static pressure at the inlet of the control device or the fan RPM.

(j) For each by-product coke oven battery, you must install, operate, and maintain a COMS to measure and record the opacity of emissions exiting each stack according to the requirements in paragraphs (j)(1) through (5) of this section.

* * * * *

(k) For each multicyclone applied to pushing emissions, you must install, operate, and maintain CPMS to measure and record the pressure drop across each multicyclone during each push according to the requirements in paragraphs (b) through (d) of this section except as specified in paragraphs (e)(1) through (3) of this section.

■ 8. Section 63.7333 is amended as follows:

■ a. Revising paragraph (d);

■ b. Revising paragraph (e)(2); and

■ c. Adding new paragraph (h).

§ 63.7333 How do I demonstrate continuous compliance with the emission limitations that apply to me?

* * * * *

(d) For each capture system applied to pushing emissions and subject to the operating limit in § 63.7290(b)(3), you must demonstrate continuous compliance by meeting the requirements in paragraph (d)(1), (2), or (3) of this section:

(1) If you elect the operating limit for volumetric flow rate in § 63.7290(b)(3):

(i) Maintaining the daily average volumetric flow rate at the inlet of the control device at or above the minimum level established during the initial or subsequent performance test; and

(ii) Checking the volumetric flow rate at least every 8 hours to verify the daily average is at or above the minimum level established during the initial or subsequent performance test and recording the results of each check.

(2) If you elect the operating limit for fan motor amperes in § 63.7290(b)(3)(i):

(i) Maintaining the daily average fan motor amperages at or above the minimum level established during the initial or subsequent performance test; and

(ii) Checking the fan motor amperage at least every 8 hours to verify the daily average is at or above the minimum level established during the initial or subsequent performance test and recording the results of each check.

(3) If you elect the operating limit for static pressure or fan RPM in § 63.7290(b)(3)(ii):

(i) Maintaining the daily average static pressure at the inlet to the control device at an equal or greater vacuum

than established during the initial or subsequent performance test or the daily average fan RPM at or above the minimum level established during the initial or subsequent performance test; and

(ii) Checking the static pressure or fan RPM at least every 8 hours to verify the daily average static pressure at the inlet to the control device is at an equal or greater vacuum than established during the initial or subsequent performance test or the daily average fan RPM is at or above the minimum level established during the initial or subsequent performance test and recording the results of each check.

(e) * * *

(2) Operating and maintaining a COMS and collecting and reducing the COMS data according to § 63.7331(j).

* * * * *

(h) For each multicyclone applied to pushing emissions and subject to the operating limit in § 63.7290(b)(4), you must demonstrate compliance by meeting the requirements in paragraphs (h)(1) through (3) of this section.

(1) Maintaining the daily average pressure drop at a level at or below the level established during the initial or subsequent performance test.

(2) Operating and maintaining each CPMS according to § 63.7331(k) and recording all information needed to document conformance with these requirements.

(3) Collecting and reducing monitoring data for pressure drop according to § 63.7331(e)(1) through (3).

[FR Doc. 04–22871 Filed 10–12–04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2004–0299; FRL–7681–8]

Mepanipyrim; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of mepanipyrim, 4-methyl-N-phenyl-6-(1-propynyl)-2-pyrimidinamine, and its metabolite, 4-methyl-N-phenyl-6-(2-hydroxypropyl)-2-pyrimidinamine, both free and conjugated in or on grape; grape, raisin; strawberry; and tomato. K-I Chemical U.S.A., Inc., requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective October 13, 2004. Objections and requests for hearings must be received on or before December 13, 2004.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number OPP–2004–0299. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket/*. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 South Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Mary L. Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9354; e-mail address: *waller.mary@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gpo/opptsfrs/home/guidelin.htm/*.

II. Background and Statutory Findings

In the **Federal Register** of May 26, 2004 (69 FR 29940) (FRL–7357–4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8E5017) by K-I Chemical U.S.A., Inc., 11 Martine Ave., 9th Floor, White Plains, NY 10606. That notice included a summary of the petition prepared by K-I Chemical U.S.A., the petitioner. One comment from a private citizen was received in response to the notice of filing. The petition requested that 40 CFR part 180 be amended by establishing tolerances for combined residues of the fungicide mepanipyrim in or on grape at 2.0 parts per million (ppm); grape, raisin at 4.0 ppm; strawberry at 1.5 ppm; and tomato at 0.5 ppm.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section

408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for tolerances for combined residues of mepanipyrim and its metabolite in or on grape at 1.5 ppm; grape, raisin at 3.0 ppm; strawberry at 1.5 ppm; and tomato at 0.5 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by mepanipyrim are discussed in Table 1 of this unit as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity rodents (rat)	NOAEL = ≥ 55.9/61.3 milligrams/kilogram/day LOAEL = Not established
870.3100	90-Day oral toxicity rodents (rat)	NOAEL = Not established LOAEL = 109/120 mg/kg/day, based on increased total bilirubin, alkaline phosphatase, phospholipids, non-esterified fatty acids in males; increased fatty liver changes in both sexes; decreased food efficiency, triglycerides, and phospholipids and increased incidence of hepatic abnormalities (yellowish, malformative nodules, granulation, hepatodiaphragmatic nodule, and fatty change) in females.
870.3100	90-Day oral toxicity rodents (mouse)	NOAEL = 182/224/mg/kg/day LOAEL = 603/675 mg/kg/day (male/female (M/F)), based on increased absolute and relative (to body) liver weights in both sexes, increased severity of anisonucleosis in male liver, and increased food consumption in males.
870.3150	90-Day oral toxicity in nonrodents (dog)	NOAEL = Not established LOAEL = 15 mg/kg/day (M/F), based on increased incidences of minimal pigment deposition in the Kupffer cells and hepatocytes and increased alanine aminotransferase in both sexes.
870.3150	90-Day oral toxicity in nonrodents (dog)	NOAEL = 7.5 mg/kg/day LOAEL = Not established
870.3700	Prenatal developmental in rodents (rat)	Maternal NOAEL = 750/mg/kg/day LOAEL was not established. Developmental NOAEL = 750 mg/kg/day LOAEL was not established.
870.3700	Prenatal developmental in nonrodents (rabbit)	Maternal NOAEL = 90/mg/kg/day LOAEL was not established. Developmental NOAEL = 90 mg/kg/day LOAEL was not established.
870.3800	Reproduction and fertility effects (rats)	Parental/Systemic NOAEL = 3.7/mg/kg/day LOAEL = 11.2/12.7 mg/kg/day, based on increased incidence of periacinar hepatocytic fatty vacuolation in the P and F1 generation males. Reproductive NOAEL = 11.2/12.7 mg/kg/day LOAEL was not established. Offspring NOAEL = 3.7/4.2/mg/kg/day LOAEL = 11.2/12.7 mg/kg/day, based on focal inflammation with associated hepatocytic vacuolation in the males, periacinar/panacinar hepatocytic fatty vacuolation and increased absolute liver eights in the females, and increased relative (to body) liver weights in both sexes.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.3800	Reproduction and fertility effects (rats)	Parental/Systemic NOAEL was not established. LOAEL = 10.5/12.0 mg/kg/day (M/F), based on increased incidence of periacinar hepatocytic fatty vacuolation in the F1 males. Reproductive NOAEL = 141.9/165.7/mg/kg/day (M/F) LOAEL was not established. Offspring NOAEL = 3.7/4.2 mg/kg/day (M/F) LOAEL = 10.5/12.0 mg/kg/day (M/F), based on increased liver weights, macroscopic hepatic findings (accentuated lobular pattern and pale liver), and hepatocytic fatty vacuolation.
870.4300	Combined chronic toxicity/ carcinogenicity rodents (rat)	NOAEL = 7.34/9.29/mg/kg/day LOAEL = 100/125 mg/kg/day based on increased incidence of clinical signs of toxicity in males, decreased body weight, body weight gain and food efficiency in both sexes, and evidence of hepatotoxicity, nephrotoxicity, and fatty acid/lipid metabolism disruption in both sexes. Evidence of carcinogenicity, based on hepatocellular adenomas in females.
870.4100	Chronic toxicity dogs	NOAEL = 7.5 mg/kg/day LOAEL = 50 mg/kg/day (M/F), based on decreased body weights, body weight gains, and food consumption in females; increased leukocytes (neutrophils and lymphocytes), decreased erythroid series, and increased myeloid to erythroid ratio in both sexes; and indications of liver toxicity, including increased ALT, alkaline phosphatase, and ornithine carbamyl transferase, and lipofuscin, enlargement, and inflammatory infiltrate in the hepatocytes of both sexes.
870.4300	Carcinogenicity mice	NOAEL = 56/68 (M/F) mg/kg/day LOAEL = 578/681 mg/kg/day (M/F), based on decreased body weights, body weight gains, and food efficiency in males, absolute and relative to body liver weights in both sexes, and gross and microscopic hepatic lesions in both sexes. Evidence of carcinogenicity, based on hepatocellular adenomas and carcinomas in male and female mice.
870.5100	Reverse gene mutation assay in bacteria	There was no evidence of induced mutant colonies over background.
870.5300	Forward gene mutation assay in mammalian cells	There was no evidence that KIF 3535 induced mutant colonies over background in the ± S9 activation.
870.5375	*In vitro* mammalian cytogenetic assay	Not clastogenic with or without S9 activation, at any dose tested.
870.5385	*In vivo* mammalian cytogenetic assay	No increase in aberrant cells were seen in the bone marrow chromosomal aberration assay.
870.5395	*In vivo* mammalian cytogenetic assay	Did not induce micronucleated polychromatic erythrocytes (PMCEs) in bone marrow at any dose.
870.5500	Bacterial DNA damage and repair test	No evidence that DNA damage was induced.
870.5550	UDS synthesis in mammalian cell culture	Did not induce UDS at any dose.
870.7485	Metabolism and pharmacokinetics (rat)	In an unacceptable rat metabolism study mepanipyrim was readily absorbed from the gastrointestinal tract and about 96% of the administered dose was eliminated in feces and urine. Bile was the major route of excretion (72%); and less than 0.1% of the dose was eliminated in expired air. There was no sex difference in absorption and elimination of mepanipyrim. Parent and up to 16 metabolites were purported to be identified; however, > 5% of the administered dose was not accounted or analyzed in the excreta.
Non-guideline	Mechanism of fatty liver (rats)	Dietary administration of 4,000 ppm KIF 3535 to male rats may cause fatty liver by a mechanism inhibiting the synthesis and/or transport and release of VLDL from the liver, as demonstrated by decreased acetate incorporation, decreased serum lipid concentrations, increased liver lipid concentrations, decreased VLDL, LDL, and HDL-triglycerides and HDL-cholesterol levels in serum, and decreased adipose tissue weight.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
Non-guideline	Oxidative damage to hepatic DNA (females rats and mice)	Measurement of liver 8-hydroxyguanine were inconsistent and not accompanied by vehicle control data, therefore, interpretation of the results were inconclusive.
Non-guideline	Induction of lipid peroxidation (female rats and mice)	Oral or dietary administration of the test compound did not induce hepatic lipid peroxidation as measured by thiobarbituric acid-reactive compounds in either female rats or mice in this study.
Non-guideline	Induction of mixed function oxidase (female rats and mice)	Dietary administration of mepanipyrim induced cytochrome P-450 and aminopyrine N-demthylase activities in the female rat and aminopyrine N-demthylase activity in female mice.
Non-guideline	Promotion of liver carcinogenesis (rats)	Liver is the target organ, consistent with other studies. The test compound may/or may not act as a tumor promoting agent in the two-stage model of hepatic carcinogenesis utilized in the current study.
Non-guideline	Liver enzyme induction (mice)	Single oral administration of 5000 mg/kg or multiple administrations of 3000 mg/kg/day KIF-3535 to male mice causes hepatotoxicity (increased liver weights, cellular hypertrophy, and increase in cell proliferation) and increase in liver metabolic enzymes (cytochrome P-450).
Non-guideline	Liver enzyme induction (rat)	Single administration of 5,000 mg/kg or multiple administrations of 2,000 mg/kg KIF-3535 to rats caused decrease in body weights, hepatotoxicity (increased liver weights, discoloration, cellular hypertrophy, fatty changes, elevated GPT and GOT, and increase in cell proliferation) and increase in mild increase in liver metabolic enzymes (cytochrome P-450).

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

Three other types of safety or uncertainty factors may be used: ''Traditional uncertainty factors;'' the ''special FQPA safety factor;'' and the ''default FQPA safety factor.'' By the term ''traditional uncertainty factor,'' EPA is referring to those additional uncertainty factors used prior to FQPA passage to account for database deficiencies. These traditional uncertainty factors have been incorporated by the FQPA into the additional safety factor for the protection of infants and children. The term ''special FQPA safety factor'' refers to those safety factors that are deemed necessary for the protection of infants and children primarily as a result of the FQPA. The ''default FQPA safety factor'' is the additional 10X safety factor that is mandated by the statute unless it is decided that there are reliable data to choose a different additional factor (potentially a traditional uncertainty factor or a special FQPA safety factor).

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by an UF of 100 to account for interspecies and intraspecies differences and any traditional uncertainty factors deemed appropriate (RfD = NOAEL/UF). Where a special FQPA safety factor or the default FQPA safety factor is used, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of safety factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk). An example of how such a probability risk is expressed would be to describe the risk as one in one hundred thousand (1×10^{-5}), one in a million (1×10^{-6}), or one in ten million (1×10^{-7}). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE^{cancer} = point of departure/exposures) is calculated.

A summary of the toxicological endpoints for mepanipyrim used for human risk assessment is shown in Table 2 of this unit:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR MEPANIPYRIM HUMAN HEALTH RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary	Not available	None	An endpoint of concern attributable to a single dose was not identified. An acute RfD was not established.
Chronic Dietary all populations	NOAEL= 7.3 mg/kg/day UF = 100 Chronic RfD = 0.073 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD FQPA SF = 0.073 mg/kg/day	Chronic Toxicity - Rat Systemic Toxicity LOAEL = 100 mg/kg/day, based on increased incidence of clinical signs of toxicity in males, decreased body weight, body weight gain and food efficiency in both sexes, and evidence of hepatotoxicity, nephrotoxicity, and fatty acid/lipid metabolism disruption in both sexes.
Cancer (oral, dermal, inhalation)			EPA concluded that mepanipyrim is ''likely to be carcinogenic to humans.'' For risk assessment purposes EPA derived a Q_1*= 1.35 x 10^{-2}, based on mouse liver combined adenomas and carcinomas.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. Mepanipyrim is a new chemical and these are the first tolerances to be proposed for this chemical. Risk assessments were conducted by EPA to assess dietary exposures from mepanipyrim in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one-day or single exposure. There were no toxic effects attributable to a single dose. An endpoint of concern was not identified to quantitate acute dietary risk to the general population, including infants and children, or to the subpopulation females 13–50 years old. Therefore, a quantitative acute exposure assessment was not performed.

ii. *Chronic exposure*. In conducting the chronic dietary risk assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), which incorporates food consumption data as reported by respondents in the USDA 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII), and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: It was assumed that 100% of the crop imported from Western Europe was treated and that anticipated residues based on average field trial data occurred on all commodities. Since the petitioner provided pesticide product labels limited to use in Western Europe only, it was assumed that use of mepanipyrim would be limited to Western Europe.

iii. *Cancer*. For the cancer exposure assessment, the same assumptions as identified in the chronic exposure unit, Unit III.C.1.ii., were used. Applying the Q_1* of 0.0135 $(mg/kg/day)^{-1}$ to the exposure value results in a cancer risk estimate of 2.6 x 10^{-7}.

iv. *Anticipated residue and percent crop treated (PCT) information*. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must pursuant to section 408(f)(1) of FFDCA require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of FFDCA, EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows: The percentage of imported crops from Western Europe which are consumed by the United States are as follows: Grapes, fresh - 1%; grape, juice - 1%; grape, raisin - 3.3%; strawberry, fresh - 1%; strawberry, juice - 31.5%; tomatoes, fresh - 1.3% and tomatoes, processed - 4%.

The Agency believes that the three conditions listed in Unit III. have been met. With respect to Condition 1, the PCT estimates were derived from the U.S. Department of Agriculture's Economic Service and the U.S. Census Bureau for the period of 1981–2000 to determine the imported share of U.S. consumed food. Additionally, import data from the Foreign Agricultural Trade of the United States (FATUS) database which is used as the official United States source of import and export data served as the source to determine the percentage of imported grapes, strawberries, and tomatoes imported from Western Europe. Import data from the years 2000 to 2003 was analyzed and averaged in order to estimate the percentage of imports. The Agency believes this data is reliable as the import data was stable over a 3 year period, and the United States has other major sources favored for import of these commodities. As to Conditions 2 and 3, regional consumption information and consumption

information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which mepanipyrim may be applied in a particular area.

2. *Dietary exposure from drinking water.* The proposed tolerances are for imported commodities only, and there are no current or proposed U.S. registrations for this chemical. Therefore, there is no potential for exposure to mepanipyrim through drinking water, and a drinking water assessment was not performed.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). There are no products containing mepanipyrim proposed or registered for residential use or that may be applied by commercial applicators to residential sites. Therefore, a residential exposure assessment was not performed.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to mepanipyrim and any other substances and mepanipyrim does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that mepanipyrim has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's OPP concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's web site at *http://www.epa.gov/pesticides/cumulative/*.

D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional safety factor value based on the use of traditional uncertainty factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity.* There is no quantitative or qualitative evidence of increased susceptibility of rat and rabbit fetuses to *in utero* exposure to mepanipyrim in developmental studies. There is no quantitative or qualitative evidence of increased susceptibility to mepanipyrim following pre-/postnatal exposure in a 2-generation reproduction study. There is no concern for developmental neurotoxicity resulting from exposure to mepanipyrim. Since there was no observed evidence of developmental neurotoxicity in short and long-term toxicity studies in rats, mice, and dogs, a developmental neurotoxicity (DNT) study is not required.

3. *Conclusion.* There is a complete toxicity database for mepanipyrim and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. There is no evidence of susceptibility following *in utero* exposure in the developmental toxicity studies in rats or rabbits, and in the 2-generation rat reproduction study. There are no residual uncertainties concerning pre- and postnatal toxicity and no neurotoxicity concerns. The chronic and cancer dietary food exposure assessments utilizes ARs calculated from field trial data and percent crop imported from Western Europe data for all commodities. Although refined, the assessments are based on reliable data and will not underestimate exposure/risk. There is no potential for drinking water exposure. There is no potential for residential exposure. Based on these data and conclusions, EPA reduced the FQPA Safety Factor to 1X and a developmental neurotoxicity study will not be required.

E. Aggregate Risks and Determination of Safety

1. *Acute risk.* An acute endpoint was not identified in any of the toxicity studies. Therefore, no acute risk is expected from exposure to mepanipyrim.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to mepanipyrim from food will utilize < 1% of the cPAD for the U.S. population, < 1% of the cPAD for all infants < 1 year old, and < 1 % of the cPAD for children 1–2 years old. There are no residential uses for mepanipyrim that result in chronic residential exposure to mepanipyrim. There are no current or proposed U.S. registrations of mepanipyrim for the United States and, as a result, there is no expectation of exposure through drinking water. Therefore, EPA does not expect the aggregate exposure (dietary) to exceed 100% of the cPAD, as shown in Table 3 of this unit:

TABLE 3.—SUMMARY OF CHRONIC DIETARY EXPOSURE AND RISK FOR MEPANIPYRIM

Population Subgroup	cPAD (mg/kg/day)	Exposure (mg/kg/day)	% cPAD
		DEEM-FCID	DEEM-FCID
General U.S. Population	0.73	19	<1

TABLE 3.—SUMMARY OF CHRONIC DIETARY EXPOSURE AND RISK FOR MEPANIPYRIM—Continued

Population Subgroup	cPAD (mg/kg/day)	Exposure (mg/kg/day)	% cPAD
		DEEM-FCID	DEEM-FCID
All Infants <1 year old)	0.73	0.000006	<1
Children 1–2 years old	0.73	0.000051	<1
Children 3–5 years old	0.73	0.000053	<1
Children 6–12 years old	0.73	0.000028	<1
Youth 13–19 years old	0.73	0.000013	<1
Adults 20–49 years old	0.73	0.000015	<1
Adults 50+ years old	0.73	0.000017	<1
Females 13–49 years old	0.73	0.000015	<1

3. *Aggregate cancer risk for U.S. population*. Applying the Q_1* of 0.0135 $(mg/kg/day)^{-1}$ to the exposure value results in a cancer risk estimate of 2.6×10^{-7}. Therefore, estimated cancer risk is below the Agency's level of concern of risk in the range of 1×10^{-6}.

4. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and toinfants and children from aggregate exposure to mepanipyrim residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromotography/nitrogen-phosphorus detector (GC/NPD) method and multi-residue method (MRM)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently no established Codex, Canadian or Mexican maximum residue limits (MRLs) for mepanipyrim.

V. Conclusion

Therefore, the tolerances are established for combined residues of mepanipyrim, 4-methyl-N-phenyl-6-(1-propynyl)-2-pyrimidinamine, and its metabolite, 4-methyl-N-phenyl-6-(2-hydroxypropyl)-2-pyrimidinamine, both free and conjugated in or on grape at 1.5 ppm; grape, raisin at 3.0 ppm; strawberry at 1.5 ppm; and tomato at 0.5 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2004–0299 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before December 13, 2004.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900L), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Suite 350, 1099 14th St., NW., Washington, DC 20005. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 564–6255.

2. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in **ADDRESSES**. Mail your copies, identified by docket ID number OPP–2004–0299, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in **ADDRESSES**. You may also send an electronic copy of your request via e-

mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 30, 2004.

James Jones,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.604 is added to subpart C to read as follows:

§ 180.604 Mepanipyrim; tolerances for residues.

(a) *General.* [Reserved]

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect of inadvertent residues.* [Reserved]

(e) *Revoked tolerances subject to the channel of trade provisions.* [Reserved]

(f) *Import tolerances.* Tolerances are established for the combined residues of mepanipyrim, 4-methyl-N-phenyl-6-(1-propynyl)-2-pyrimidinamine, and its metabolite, 4-methyl-N-phenyl-6-(2-hydroxypropylk)-2-pyrimidinamine,

both free and conjugated in or on the following commodities:

Commodity	Parts per million
Grape	1.5
Grape, raisin	3.0
Strawberry	1.5
Tomato	0.5

[FR Doc. 04–22963 Filed 10–12–04; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031126297–3297–01; I.D. 100604A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 48 hours. This action is necessary to fully use the 2004 total allowable catch (TAC) of pollock specified for Statistical Area 630.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 7, 2004, through 1200 hrs, A.l.t., October 9, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on October 2, 2004 (69 FR 59834, October 6, 2004).

NMFS has determined that, approximately 2,767 mt of pollock remain in the 2004 directed fishing allowance. This amount is large enough to provide for a manageable directed pollock fishery in Statistical Area 630. Therefore, in accordance with 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the 2004 TAC of pollock specified for Statistical Area 630, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 630 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 48 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA effective 1200 hrs, A.l.t., October 9, 2004.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 630.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 6, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–22938 Filed 10–7–04; 1:46 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 69, No. 197
Wednesday, October 13, 2004

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 736, 740, 744, 752, 764, and 772

[Docket No. 040915266–4266–01]

RIN 0694–AC94

Revised ''Knowledge'' Definition, Revision of ''Red Flags'' Guidance and Safe Harbor

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the knowledge definition in the Export Administration Regulations to incorporate a ''reasonable person'' standard and to replace the phrase ''high probability'' with the phrase ''more likely than not.'' It also would update the ''red flags'' guidance and would provide a safe harbor from liability arising from knowledge under that definition.

DATES: Comments must be received by November 12, 2004.

ADDRESSES: Send comments on this proposed rule to: the Federal eRulemaking Portal: *http://www.regulations.gov,* via e-mail to *rpd2@bis.doc.gov,* fax them to 202–482–3355, or on paper to Regulatory Policy Division, Office of Exporter Services Room 2705, U.S. Department of Commerce, Washington, DC 20230. Refer to Regulation Identification Number 0694–AC94 in all comments.

FOR FURTHER INFORMATION CONTACT: For further information regarding this proposed rule, contact: William Arvin, Office of Exporter Services, at *warvin@bis.doc.gov,* fax 202–482–3355 or telephone 202–482–2440

SUPPLEMENTARY INFORMATION:

Background

Knowledge Definition

The current definition of ''knowledge'' in § 772.1 of the EAR encompasses ''not only positive knowledge that a circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts.'' This proposed rule would amend the definition of knowledge in four ways, incorporating a ''reasonable person'' standard, replacing the phrase ''high probability'' with the phrase ''more likely than not,'' adding the phrase ''*inter alia*'' to the description of the facts and circumstances that could make person aware of the existence or future occurrence of a fact, and eliminating the phrase ''known to the person'' from the sentence in the knowledge definition that states that knowledge may be inferred from ''conscious disregard of facts known to the person.'' The proposed rule also limits the applicability of the definition to certain actors in transactions subject to the Export Administration Regulations (EAR) and excludes certain usages from the definition.

BIS believes that incorporating the reasonable person standard into the definition will facilitate public understanding of the definition, particularly as it applies to knowledge-based license requirements, and restrictions on use of License Exceptions. Under this revised definition a party would have knowledge of a fact or circumstance if a reasonable person in that party's situation would conclude, upon consideration of the facts and circumstances, that the existence or future occurrence of the fact or circumstance in question is more likely than not.

BIS believes that replacing the phrase ''high probability'' with the phrase ''more likely than not'' is not a change from current policy and practice. The phrase ''more likely than not'' is better understood than ''high probability.'' Moreover, companies with a strong compliance commitment are unlikely, even under the current definition, to proceed with transactions if they conclude that the circumstance of concern is ''more likely than not.''

Adding the phrase *''inter alia''* to the description of the circumstances under which knowledge may be inferred emphasizes that the factors cited in the definition, *i.e.* the conscious disregard or willful avoidance of facts are not the only factors from which knowledge may be inferred.

Removing the phrase ''known to the person'' from the sentence in the knowledge definition that states that knowledge may be inferred from ''conscious disregard of facts known to the person'' would eliminate the use of the defined term in the definition.

Other proposed changes to the definition address the scope of its application. The phrase ''When referring to an actor in a transaction that is subject to the EAR'' would be added to the beginning of the definition, and language would be added to specify that the definition concerns knowledge of a fact or circumstance relating to such a transaction. These changes would make clear that the definition would not apply to provisions of the EAR in which ''knowledge'' and related terms are used: (1) To refer to technology; (2) to ''personal knowledge'' or to knowledge of the EAR; (3) to describe the basis for an agency or official to take an enforcement or administrative action; (4) to indicate an alternative name (as in the phrase ''also known as''); (5) in explanatory text that has no legal effect; (6) in a requirement that a party certify that a statement is true to the best of its knowledge; or (7) when referring to the requirements or prohibitions of a law other than those implemented by the EAR. Finally, language would be added excluding from the definition the use of ''knowledge'' terms in the description of criminal liability in Section 764.3(b). The proposed definition, like the current definition of ''knowledge'' in § 772.1, would also not apply to Part 760 of the EAR (Restrictive Trade Practices or Boycotts).

Enhanced Red Flags

BIS is proposing to update and augment the ''red flag'' guidance and to increase from 12 to 23 the number of circumstances expressly identified as presenting a red flag. The revised guidance would reflect experience gained since the existing red flags and guidance were developed in the mid-1980s. The ''red flags'' would continue to provide guidance that BIS believes is useful in preventing the diversion of items that are subject to the EAR to proliferation related purposes as well as

other potential violations of the EAR. Although the ''red flags'' provide guidance, this rule would also incorporate them by reference into the proposed safe harbor and the Internal Compliance Programs requirements of Special Comprehensive Licenses. To clarify the role the red flags would play under this rule, BIS is proposing to add a statement that the red flags and know your customer guidance do not derogate from obligations imposed elsewhere in the EAR and to remove the statement ''This guidance does not change or interpret the EAR'' from supplement No. 3 to part 732.

BIS believes that many conscientious participants in export transactions are following the current ''red flag'' guidance. BIS anticipates that the added benefit of the safe harbor provision would encourage more parties to take these measures and thereby prevent diversions to proscribed or inappropriate end-uses.

Safe Harbor

BIS is proposing to create a safe harbor from liability arising from knowledge-based license requirements, knowledge-based restrictions on use of License Exceptions, and other knowledge provisions in the EAR that are subject to the proposed definition of knowledge described above. Under this safe harbor, parties who take steps identified in a new § 764.7 will not have knowledge imputed to them by application of the ''reasonable person'' standard stated in the new definition. Parties who report to BIS's Office of Enforcement Analysis, prior to shipment, all material information regarding the existence, assessment, and satisfactory resolution of the red flag(s) and who do not otherwise have ''knowledge,'' as defined in § 772.1, will be eligible for a safe harbor from any enforcement action arising from the red flag(s) that they have addressed.

The steps to be listed in § 764.7 are:

(1) Comply with any item and/or destination-based license requirements and other notification or review requirements;

(2) Determine whether parties in the transaction are subject to a denial order or to certain sanctions, whether they appear on the Entity List or the Unverified List, whether the transaction is governed by a general order issued by BIS; and

(3) Follow the procedures for identifying and resolving red flags set forth in Supplement No. 3 to Part 732.

If BIS concludes that a reported transaction involves unresolved red flags, it will so advise the submitting party. If a party has actual knowledge or awareness that the fact or circumstance in question is more likely than not, then even if the party receives BIS concurrence (based on a report to the Office of Enforcement Analysis) that red flags are resolved, the party will not be eligible for the safe harbor nor will BIS concurrence bind a subsequent enforcement action or prosecution, because the report would have misstated or withheld relevant information.

BIS expects to respond to most such reports within 45 days of receipt. BIS will acknowledge in writing receipt of all reports and will provide a telephone number for the reporting party to call to learn the status of the report if it has not heard from BIS by the date stated in the acknowledgment. BIS may consult with other government agencies before responding to the party submitting the report. However, until receiving written confirmation from BIS or contacting BIS after the date specified in the acknowledgment and learning that BIS will not be responding to the report, the party is not entitled to conclude that BIS concurs in the party's assessment that any red flags have been successfully resolved.

Parties who have filed such reports may not file a license application relating to the same situation while the report is under review by BIS. Such license applications will be returned without action. In addition to language in the new § 764.7, § 748.4(f) would be modified to implement this prohibition.

Other Clarifying Amendments and Conforming Changes

The proposed rule would also amend the EAR in the following ways:

(1) Removal of Superfluous or Potentially Confusing Uses of a ''Knowledge'' Term

The proposed rule would revise three provisions of the EAR to clarify that they refer to all requirements under part 744, not just to requirements based on knowledge. These amendments would not change the substance of any provision. The provisions to be amended in this way are:

—General Prohibition Five, which references the recipient and end-use based export and reexport requirements of part 744 and which is found at § 736.2(b)(5);

—The prohibition on using License Exception AGR for transactions in which a license is required by part 744 found at § 740.18; and

—The prohibition on using Special Comprehensive Licenses to meet license requirements imposed by part 744 found at § 752.9(a)(3)(ii)(H).

(2) Consolidation of ''Red Flags'' Terminology

—The recitation of the text of the ''red flags'' that are currently described as ''* * * signs of potential diversion * * *'' in § 752.11(c)(13)(i) would be replaced with a reference to supplement No. 3 to part 732.

Request for Comments

BIS is seeking public comments on this proposed rule. BIS will consider comments about all aspects of this proposed rule, but is particularly seeking comments on whether the proposed changes to the definition of the term ''knowledge'' will increase the burden on small entities and whether the economic impact of the proposal will be significant and on whether the ''safe harbor'' provision is likely to be useful. The period for submission of comments will close November 12, 2004. BIS will consider all comments received before the close of the comment period in developing a final rule. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. BIS will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. BIS will return such comments and materials to the persons submitting the comments and will not consider them in the development of the final rule. All public comments on this proposed rule must be in writing, including fax or e-mail, and will be a matter of public record, available for public inspection and copying. The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this web site, please call BIS's Office of Administration at (202) 482–0637 for assistance.

Rulemaking Requirements

1. This proposed rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the PRA, unless that collection of information displays a currently valid

OMB control number. This proposed rule involves a collection-of-information requirement approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The OMB control number for this collection is 0694–0088, which relates to BIS's application forms. This proposed rule also would create a new information collection in which private parties provide the government information about suspicious circumstances they encounter and how they resolve them. This information collection would require OMB approval before being implemented.

3. This rule does not contain policies with Federalism implications as this term is defined in Executive Order 13132.

4. The Chief Counsel for Regulation of the Department of Commerce has certified to the Counsel for Advocacy that this proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

To estimate the number of small entities that would be affected by this rule, BIS evaluated its licensing database to determine the number of businesses that applied for export licenses where ''knowledge'' of a particular circumstance concerning the end-use or end-user triggers a license requirement. A total of 149 entities applying for such licenses in 2003 were identified. BIS then conducted an Internet search of those businesses to determine which of those businesses disclosed their sales or employment levels on Web sites. BIS compared those sales or employment levels to those found in the Small Business Administration's Table of Small Business Size Standards Matched to North American Industry Classification System published on its Web site at *http://www.sba.gov/size/sizetable2002.html.* That table provides maximum sales or employment levels that constitute a small business for a number of industries. BIS does not have similar industry classification for the entities in its licensing database so it adopted a conservative approach and used the maximum sales and employment values from the SBA table. Those values were $28.5 million and 1500 employees, respectively. BIS excluded any entity that it could identify as exceeding either of these values. Forty-three entities were excluded by this method, leaving a total of 106 that might be small entities. All of these entities would be subject to this rule. In addition, this rule would not increase the number of entities that are subject to the Export Administration Regulations or to the provisions of those regulations under which knowledge triggers a requirement to act or refrain from acting.

BIS does not have data to indicate how many enforcement proceedings under the Export Administration Regulations apply to small entities. However, in its Fiscal Year 2003 Annual Report, BIS reported the criminal ''conviction of 21 individuals and businesses'' and ''34 administrative enforcement settlements'' for the fiscal year. In addition, there were three administrative proceedings that resulted in denials of export privileges. Some of these actions probably did not involve small entities and there may be some overlap in cases where a single entity received both criminal and administrative sanctions.

Assuming that all of BIS's FY 2003 enforcement actions were against small entities and that 106 of the 149 entities that applied for a license in FY 2003 were all small entities, the rule would affect a substantial number of small entities. However, although there would be a substantial number of small entities affected by this rule, this rule will not have a significant economic impact on a substantial number of small entities because the overall economic costs associated with this rule are minimal. As discussed below, BIS does not believe that businesses will see this change as imposing a materially different standard on their compliance activities.

Although this proposal has the potential to impact a substantial number of small entities, BIS does not believe that it will have a significant economic impact on the affected small entities. Fundamentally, BIS does not believe that moving to a ''more likely than not'' formulation increases a company's responsibility with respect to knowledge. Rather, as stated in the rule, we see this as a clarification of the current standard and as consistent with existing BIS and industry practice.

From a practical perspective, based on BIS's experience with industry compliance with the existing standard, BIS believes that companies treat facts that are ''more likely than not'' as creating a ''high probability'' of the fact. In other words, in our experience, companies would take the position that there is a ''high probability'' of a given fact if the fact is ''more likely than not.'' Those who must comply with these regulations are in businesses engaged in exporting and reexporting and must make decisions quickly based on practical considerations. The likely scenarios are that either (1) the party has knowledge of some facts that suggest a proliferation end-use, an obligation to disclose or a possible violation of law and with that knowledge decides to either apply for a license or to forego the business, or (2) that the party has no knowledge of any such facts, and would not be required to obtain a license under either the old or the new definitions. Thus, even if there were a distinction between the terms ''high probability'' and ''more likely than not,'' the distinction would be unlikely to affect the decision making process of a business person who is deciding whether to proceed with a sale. Stated otherwise, if a party preparing to undertake an export transaction encounters a reason to believe that a fact or circumstance exists that implicates a licensing requirement under the Regulations, that party can reasonably be expected either to apply for a license or forego the transaction, regardless of whether ''knowledge'' is defined by reference to a ''more likely than not'' or ''high probability'' formulation.

To the extent that a business engages in this kind of legal analysis, use of the term ''more likely than not,'' which is a well known legal standard, will reduce uncertainty among those who make these decisions, and thereby will reduce the economic impact of the control and the necessity of legal counsel. In addition, BIS does not believe that small entities will incur additional costs due to training or legal counseling to comply with the new requirements. BIS provides a number of opportunities for counseling or training to assist businesses in their compliance efforts at no charge or at a reasonable cost. BIS maintains telephone advice lines in California and Washington to provide timely answers to people who have questions concerning its regulations. It also provides an e-mail address where such questions may be submitted. BIS gives written advisory opinions concerning its regulations. BIS provides training seminars in cooperation with trade associations and other groups around the country. The costs of this training ranges from $75 to $350 depending on the nature, length and location of the program. However, one should not attribute the entire training cost or even a significant portion of it to this proposed rule. Even if one did, BIS does not believe that $350 would constitute a significant economic impact.

In terms of the costs of the inquiry that BIS recommends companies conduct in response to red flags, BIS does not believe that the costs will significantly increase when compared to the company's responsibility under the existing rule. Companies are currently

expected to make inquiries before proceeding when information indicating a proliferation end-use, an obligation to disclose, or a violation of law comes to their attention. The Regulations currently provide an illustrative list of red flags, but do not limit any duty to inquire to the circumstances on that list. By increasing the number of circumstances that are specifically called out as ''red flags,'' BIS is reducing any uncertainty that a company faces in determining what information provides such indications. BIS expects that, under the proposed rule, the cost of the inquiries performed by companies will not increase and will continue to be reasonable given the information that the company has received and the items involved in the transaction. The proposed rule makes this point clear by stating that:

> You are expected to conduct an inquiry that is reasonable for a party in your circumstances. Thus, if you are exporting specially ordered equipment that you manufactured as part of a negotiated sale to an end-user in an industry with which you do a substantial part of your business, you may be expected to conduct a more thorough and better targeted inquiry than a distributor exporting off-the-shelf equipment that is used in a wide range of commercial and industrial contexts.

The purpose of the rule is to clarify responsibilities and provide greater certainty to parties involved in export transactions when confronted with indications of a proliferation end-use, an obligation to disclose or a possible violation of law.

Finally, in assessing the possible economic impact of this rule, one should look at it in its entirety. The rule contains a safe harbor provision that enables a business to learn, before proceeding with the transaction, whether BIS concurs that its actions qualify for the safe harbor. This opportunity to avoid fines and penalties mitigates the impact of this rule.

Accordingly, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel of Advocacy that this proposed rule will not have a significant economic impact on a substantial number of small entities. BIS invites comment on this certification, including, but not limited to whether the proposed changes to the definition of the term ''knowledge'' will increase the burden on small entities and whether the economic impact of the proposal will be significant.

List of Subjects

15 CFR Parts 732, 740, 748, and 752

Administrative practice and procedure, Exports, Reporting and record keeping requirements.

15 CFR Parts 736, and 772

Exports.

15 CFR Part 744

Exports, Reporting and record keeping requirements.

15 CFR Part 764

Administrative practice and procedure, Exports Law enforcement, Penalties.

Accordingly, parts 732, 736, 740, 744, 752, 764, and 772 of the Export Administration Regulations (15 CFR 730–799) are amended as follows.

PART 732—[AMENDED]

1. Revise the authority citation for part 732 to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

2. Revise supplement No. 3 to part 732 to read as follows:

Supplement No. 3 to part 732—BIS's Know Your Customer Guidance and Red Flags

(a) Introduction. Several provisions of the EAR are applicable if a party has knowledge (as defined in § 772.1 of the EAR) of a particular fact or circumstance. Examples include § 764.2(e), which prohibits taking certain actions regarding an item that is subject to the EAR with knowledge that a violation has occurred, is about to occur or is intended to occur with respect to that item and § 744.4, which requires a license to export or reexport any item subject to the EAR if the exporter or reexporter knows that the item will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by any country. The following guidance is provided with respect to these knowledge standards. It is also useful with respect to other EAR requirements because a heightened awareness of the signs of potential diversion can help to prevent violations. This guidance and the red flags are also incorporated by reference in § 764.7 (Safe Harbor from Certain Knowledge-based Requirements) of the EAR. The red flags are incorporated into the system for screening customers that is part of the internal control program required of Special Comprehensive License holders and consignees and described in § 752.11(c)(13)(i) of the EAR. The ''red flags'' and know your customer guidance do not derogate from obligations imposed elsewhere in the EAR.

(b) *Know Your Customer Guidance.* (1) Look out for red flags. In all transactions subject to the EAR, look out for any abnormal circumstances that indicate that the transaction may involve an inappropriate end-use, end-user or destination or otherwise violate the EAR. Such circumstances are referred to as ''red flags.'' Red flags may be presented by information provided by a customer or information obtained from another source (*e.g.*, a credit report that you might run on a new customer wishing to place a large order).

(i) Red flags point to a heightened risk of a problem with the transaction. Most commonly, red flags indicate a heightened risk that a claimed end-use, end-user or ultimate destination is not the actual one. Red flags of this type thus can point to the possibilities that the export or reexport is actually destined for an embargoed country, an end use that triggers a license requirement under part 744 of the EAR, a person denied export privileges under part 764 of the EAR, a person on the Entity List in supplement No. 4 to part 744, specially designated global terrorists (*see* § 744.12), specially designated terrorists (*see* § 744.13), designated foreign terrorist organizations (*see* § 744.14), persons on the list of specially designated nationals identified by the bracketed suffix IRAQ2 (*see* § 744.18), a transaction that would violate a BIS General Order (*see* supplement No. 1 to part 736), persons on the Unverified List published by BIS, or an end-use or end-user that is restricted under part 744.

(ii) What constitutes a red flag depends on the context. A fact or circumstance that raises a red flag for an export of one type of item, to a given destination, or a particular business model may be innocuous for an export involving a different item, a different destination, or different business model. The role that you are playing in a transaction is also relevant to what facts or circumstances you are expected to recognize as red flags. For example, a manufacturer who is exporting one of its products will be expected to be highly familiar with the configurations or specifications required for an end-use stated by a customer. Thus, a manufacturer should be able to recognize when a deviation from such parameters is indicative of an end-use

other than what is stated. Similarly, if a freight forwarder is better able than an exporter to recognize that the location of an intermediate consignee is incongruous with the claimed ultimate destination, then such information could be regarded as a red flag for the freight forwarder, but not the exporter. The general rule is that you should treat a fact or circumstance as a red flag if it would cause a reasonable person in your situation (*e.g.,* manufacturer/exporter, freight forwarder, distributor/reexporter) to suspect that a transaction may involve an inappropriate end-use, end-user or destination, or otherwise violate the EAR.

(iii) Red flags may also be raised in exports that have been licensed by BIS; for example, information you receive after obtaining an export license may suggest a risk of diversion. Parties should identify and respond to red flags in all transactions, including ones for which an export license has been obtained.

(2) *Make those who act on your behalf aware.* Your employees and others acting on your behalf (for example, a contractor hired to perform export-related functions) need to know how to take the steps described below, especially identifying and responding to red flags. If such persons have knowledge or reason to know a fact or circumstance, that knowledge or reason to know can also be imputed to employers or other principals, so that the latter are also liable for a violation. Thus, it is especially important for firms to establish clear policies and effective compliance procedures to ensure that knowledge about transactions can be evaluated by responsible senior officials. Failure to do so could be regarded as a form of self-blinding (*see* paragraph (b)(5) of this supplement No. 3 and § 772.1, definition of *knowledge*).

(3) *If there are red flags, inquire.* When there is a red flag, you have an affirmative duty to inquire into the circumstances giving rise to the red flag and whether they in fact present a heightened risk of an inappropriate end-user, end-use or ultimate destination, or of some other possible violation of the EAR. In so doing, your object is to verify or substantiate whether the concerns indicated by the red flag are really present (*e.g.,* the real end-use, end-user or ultimate destination). This duty of heightened scrutiny is present in all transactions subject to the EAR involving red flags. Absent red flags (or an express requirement in the EAR), you do not have an affirmative duty to inquire, verify, or otherwise ''go behind'' the customer's representations. Thus, if there are no red flags, you can rely upon representations from your customer in preparing and submitting export control documents and any license application that may be required.

(i) In responding to red flags, you are expected to conduct an inquiry that is reasonable for a party in your circumstances. Thus, if you are exporting specially ordered equipment that you manufactured as part of a negotiated sale to an end-user in an industry with which you do a substantial part of your business, you may be expected to conduct a more thorough and better targeted inquiry than a distributor exporting off-the-shelf equipment that is used in a wide range of commercial and industrial contexts.

(ii) The following are means of inquiry that, depending on particular circumstances, you should pursue in response to a red flag:

(A) Seek further information or clarification from the customer, the ultimate consignee, and/or end-user.

(B) Conduct searches of relevant publications or public information on the Internet for additional information or to confirm representations you have received.

(C) Where appropriate for a particular industry or commercial context, consult standard references or official sources. For example, the International Atomic Energy Agency (IAEA) makes available information about what nuclear facilities are under IAEA safeguards, which is relevant to determining whether export or reexport for use at a particular nuclear facility requires a license under § 744.2.

(4) *Reevaluate all of the information after the inquiry.* The purpose of your inquiry is to provide a basis for making an honest, well-informed assessment of whether the concerns indicated by the red flag are really present in your transaction. One way of making this assessment is to determine that the red flag is in fact explained by circumstances that, in the context of your transaction, do not present the concerns generally associated with the red flag. For example, a sudden change in delivery instructions can present a red flag, but the red flag could be resolved by establishing that the facility to which the items were originally to be delivered had been recently damaged by fire. If the result of your reasonable inquiry and reevaluation is that this red flag does not point to a risk of diversion or concealed end-use, you could proceed with the transaction. On the other hand, if after evaluating in good faith all of the facts and circumstances you have ascertained, you believe that the export is actually destined for a country, end-user or end-use for which an export license is required, you should not proceed with the transaction without complying with that license requirement. In making such an assessment, you are expected to bring to bear whatever relevant background or expertise you have.

(5) *Do not self-blind.* Throughout the process of identifying and responding to red flags, you must honestly take into account the facts and circumstances presented to you. Do not cut off the flow of information obtained or received in the normal course of business. For example, do not instruct the sales force to tell potential customers to refrain from discussing the actual end-use, end-user, and ultimate destination for the product your firm is seeking to sell. Do not put on blinders that prevent learning relevant information. An affirmative policy of steps to avoid ''bad'' information would not insulate a company from liability, and would be considered evidence of knowledge or reason to know the facts in question.

(6) *If there are still reasons for concern, refrain from going forward with the transaction or contact BIS.* If you continue to have reasons for concern after your inquiry and reevaluation, then you should either refrain from going forward with the transaction or submit all of the relevant information to BIS in the form of an application for a license or in such other form as BIS may specify. You have an important role to play in preventing exports and reexports contrary to the national security and foreign policy interests of the United States. BIS will continue to work in partnership with the private sector to make this front line of defense effective, while minimizing where possible the regulatory burden on legitimate participants in export transactions. If you have any question about whether you have encountered a red flag or what steps you should take in response to a red flag, or if you decide to refrain from the transaction, but believe you have information relating to completed or attempted violations of the EAR, you are encouraged to advise BIS's Office of Export Enforcement through BIS's Web site or at 1–800–424–2980 or the Office of Exporter Services at (202) 482–4811.

(c) *Red Flags: Examples.* As described below, BIS has identified a number of red flags that apply in different contexts. This discussion is not all-inclusive, but is intended to illustrate the types of circumstances to which you should be alert. BIS may supplement this description of red flags in future guidance on its Web site. Examples of red flags in various situations include:

1. The customer or purchasing agent is vague, evasive, or inconsistent in providing information about the end-use of a product.

2. The product's capabilities do not fit the buyer's line of business or level of technical sophistication. For example, a customer places an order for several advanced lasers from a facility with no use for such equipment in its manufacturing processes.

3. A request for equipment configuration is incompatible with the stated ultimate destination (*e.g.,* 120 volts for a country with 220 volts).

4. The product ordered is incompatible with the technical level of the country to which the product is being shipped. For example, semiconductor manufacturing equipment would be of little use in a country without an electronics industry.

5. The customer has little background in the relevant business. For example, financial information is unavailable from ordinary commercial sources and the customer's corporate principal is unknown.

6. The customer is willing to pay cash for an expensive item when the normal practice in this business would involve financing.

7. The customer is unfamiliar with the product's performance characteristics, but still wants the product.

8. Installation, testing, training, or maintenance services are declined by the customer, even though these services are included in the sales price or ordinarily requested for the item involved.

9. Terms of delivery, such as date, location, and consignee, are vague or unexpectedly changed, or delivery is planned for an out-of-the-way destination.

10. The address of the ultimate consignee, as listed on the airway bill or bill of lading, indicates that it is in a free trade zone.

11. The ultimate consignee, as listed on the airway bill or bill of lading, is a freight forwarding firm, a trading company, a shipping company or a bank, unless it is apparent that the ultimate consignee is also the end-user or the end-user is otherwise identified on the airway bill or bill of lading.

12. The shipping route is abnormal for the product and destination.

13. Packaging is inconsistent with the stated method of shipment or destination.

14. When questioned, the buyer is evasive or unclear about whether the purchased product is for domestic use, export or reexport.

15. The customer uses an address that is inconsistent with standard business practices in the area (*e.g.,* a P.O. Box address where street addresses are commonly used).

16. The customer does not have facilities that are appropriate for the items ordered or end-use stated.

17. The customer's order is for parts known to be inappropriate or for which the customer appears to have no legitimate need (*e.g.,* there is no indication of prior authorized shipment of system for which the parts are sought).

18. The customer is known to have or is suspected of having dealings with embargoed countries.

19. The transaction involves a party on the Unverified List published by BIS in the **Federal Register**.

20. The product into which the exported item is to be incorporated bears unique designs or marks that indicate an embargoed destination or one other than the customer has claimed.

21. The customer gives different spellings of its name for different shipments, which can suggest that the customer is disguising its identity and/or the nature and extent of its procurement activities.

22. The requested terms of sale, such as product specification and calibration, suggest a destination or end-use other than what is claimed (*e.g.*, equipment that is calibrated for a specific altitude that differs from the altitude of the claimed destination).

23. The customer provides information or documentation related to the transaction that you suspect is false, or requests that you provide documentation that you suspect is false.

PART 736—[AMENDED]

3. Revise the authority citation for part 736 to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 2151 (note), Pub. L. 108–175; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, May 13, 2004; Notice October 29, 2003, 68 FR 62209, 3 CFR, 2003 Comp., p. 347; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

4. In § 736.2, revise paragraph (b)(5) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

* * * * *

(b) * * *

(5) *General Prohibition Five—Recipient and end-use license requirements.* If a license is required because of the recipient or end use as specified in part 744 of the EAR, you may not export or reexport without such license.

* * * * *

PART 740—[AMENDED]

5. Revise the authority citation for part 740 to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901–911, Pub. L. 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

6. In § 740.18, revise the last sentence of paragraph (c)(4) to read as follows:

§ 740.18 Agricultural commodities (AGR).

* * * * *

(c) * * *

(4) * * * (Note that the fact that you have been advised that no agency has objected to the transaction does not exempt you from other license requirements under the EAR, including those based on recipient or end-use in part 744 of the EAR.)

* * * * *

PART 748—[AMENDED]

7. Revise the authority citation for part 748 to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

8. In § 748.4, revise paragraph (f) to read as follows:

§ 748.4 Basic guidance related to applying for a license.

* * * * *

(f) *Redundant submissions prohibited.* You may not submit a license application for a transaction if:

(1) You have already submitted a license application for that transaction and the license application is still pending before BIS; or

(2) You have submitted a safe harbor report for the transaction pursuant to § 764.7(c) of the EAR and the BIS decision is still pending.

* * * * *

PART 752—[AMENDED]

9. Revise the authority citation for part 752 to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

10. In § 752.9, revise paragraph (a)(3)(ii)(H) to read as follows:

§ 752.9 Action on SCL applications.

(a) * * *

(3) * * *

(ii) * * *

(H) A notice that the consignee, in addition to other requirements may not sell or otherwise dispose of any U.S. origin items under the SCL if a license is required by part 744 of the EAR.

* * * * *

11. In § 752.11, revise paragraph (c)(13) to read as follows:

§ 752.11 Internal Control Programs.

* * * * *

(c) * * *

(13) A system for screening customers and transactions to identify any circumstances (''red flags'') that indicate an item might be destined for an inappropriate end-use, end-user, or destination. This system must:

(i) Be able to identify, as a minimum, the red flags in paragraph (c) of supplement No. 3 to part 732 of the EAR, and;

(ii) Function in conformance with the ''know your customer'' guidance provided in paragraph (b) of supplement No. 3 to part 732 of the EAR:

* * * * *

PART 764—[Amended]

12. Revise the authority citation for part 764 to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

13. Add § 764.7 to read as follows:

§ 764.7 Safe harbor from knowledge-based requirements.

Parties involved in exports, reexports or other activities subject to the EAR who meet the requirements of this section can avail themselves of a ''safe harbor'' against being found to have had knowledge of a fact or circumstance under the definition of *knowledge* in § 772.1. The safe harbor can apply only to requirements or prohibitions of the EAR that incorporate knowledge, as defined in § 772.1, as an element.

(a) *You must not have actual knowledge or actual awareness that the fact or circumstance at issue is more likely than not.* The safe harbor is available only to parties who do not have actual knowledge or actual awareness that the fact or circumstance in question is more likely than not. For example, if you are about to export an item subject to the EAR and are aware that it is more likely than not that the item will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in any country, § 744.4 of the EAR requires you to obtain a license for that export and the safe harbor will not relieve you of that license requirement.

(b) *You must take the following steps.* (1) *Comply with item and/or destination-based license requirements and other notification or review requirements.* Determine whether a license is required because of the destination and the item's status on Commerce Control List and comply with any such license or other review requirements. If you are an exporter or reexporter, you must either make a good faith effort to classify the item or you must obtain a classification from BIS. You must obtain any licenses required to send the item to the destination you intend to send it to. If the item's reason for control on the Commerce Control List is EI, you must comply with any requirements to notify the U.S. government or to obtain U.S. government approval prior to export or reexport.

(2) *Determine whether the parties to the transaction are subject to a denial order, or to certain sanctions, and whether they appear on the Entity List or Unverified List, and whether the transaction is governed by a BIS General Order.* If you are an exporter or reexporter, or a freight forwarder or other party acting on an exporter's or reexporter's behalf, determine whether the parties to the transaction fall within any of the following categories:[1]

(i) Persons subject to denial of U.S. export privileges under a BIS order. Such orders are published in the **Federal Register**. BIS also makes available unofficial lists of denied persons on its Web site at *http://www.bis.doc.gov* and in an unofficial version of the EAR, which is published by the Government Printing Office and to which members of the public may subscribe. If an end-user, ultimate consignee or principal party in interest is subject to a denial order that prohibits your proposed transaction, you must not proceed.

(ii) Persons appearing on the Unverified List, which is published by BIS in the **Federal Register** and unofficially maintained on BIS's Web site. The Unverified List identifies persons in foreign countries that were parties to past transactions for which an end-use visit (either a pre-license check or a post-shipment verification) could not be conducted for reasons outside of the control of the U.S. Government. The presence on the Unverified List of an end-user, ultimate consignee or principal party in interest presents a red flag for the transaction, as described in supplement No. 3 to part 732 of the EAR.

(iii) Persons appearing on the Entity List in supplement No. 4 to part 744. To the extent described in that supplement, a license is required to export or reexport items subject to the EAR to persons on the Entity List. *See* § 744.1(c). Any applicable license requirements must be met before you proceed with the transaction.

(iv) Specially designated global terrorists [SDGT], (*see* § 744.12), specially designated terrorists [SDT] (*see* § 744.13), designated foreign terrorist organizations [FTO] (*see* § 744.14), and persons on the list of specially designated nationals identified by the bracketed suffix [IRAQ2] (*see* § 744.18). License requirements for exports and reexports to such parties are described in the referenced sections of part 744. Any applicable license requirements must be met before you can proceed with the transaction.

(v) The requirements of a BIS General Order. These General Orders, which are published in the **Federal Register** and codified in supplement No. 1 to part 736, may place special restrictions on exports and reexports certain destinations or to named persons. Before you may proceed with the transaction, you must comply with any applicable license requirements or other restrictions imposed by any applicable General Order.

(3) *Identify and respond to red flags.* If you are a party involved in an export, reexport or other activity subject to the EAR, comply with the guidance on how to identify and respond to red flags as set forth in paragraphs (b) and (c) of supplement No. 3 to part 732 of the EAR.

(c) *Report to BIS.* To be eligible for the safe harbor, parties must report the red flags that they identified and how they resolved them. BIS will respond to such reports indicating whether it concurs with the party's conclusion. BIS may consult with other government agencies in developing its response to any such report.

(1) Prior to proceeding with the transaction a party seeking to be eligible for the safe harbor must submit a written report by first-class mail, express mail, or overnight delivery to

[1] If you find that a party to your transaction has a name or address that is similar, but not identical, to a party within one of the listed categories, you should take reasonable steps to determine whether the party to your transaction is in fact identical to the party within that category, then act in accordance with your determination and this guidance.

the Bureau of Industry and Security, Office of Enforcement Analysis, 14th Street and Constitution Avenue, NW, Room 4065, Attn: Safe Harbor Guidance, Washington, DC 20230. The report must demonstrate that the party has taken the actions described in paragraph (b) of this section. In particular, the report must include all material information relating to the red flags and the steps the party took to resolve the concerns raised by the red flags.

(2) BIS will acknowledge receipt of all reports received and provide the reporting party with a telephone number at which to contact BIS if it does not receive a response by the date stated in the acknowledgement. BIS expects to respond to most reports within 45 days of its receipt of the report. The response shall:

(i) State that BIS concurs with the party's judgement that it has adequately addressed the concerns raised by the red flags;

(ii) State that BIS does not concur with the party's judgement that it has adequately resolved those concerns and describe additional information that would be necessary to resolve them adequately;

(iii) Issue an ''is informed'' notice (pursuant to §§ 744.2(b), 744.3(b), 744.4(b), 744.6(b) or 744.17(b) of the EAR) informing the party of a license requirement under §§ 744.2, 744.3, 744.4, 744.6, or 744.17(b) of the EAR; or

(iv) state that more time is needed to review the submission.

(3) The party is not entitled to conclude that BIS concurs with the party's judgement that the party has adequately resolved the concerns raised by the red flags until it either receives a response from BIS so stating or contacts BIS at the telephone number indicated in the acknowledgment and is told that BIS will not be responding to this report.

(4) A response by BIS stating that it concurs with the party's judgement that it has resolved the concerns raised by the red flags or a statement by BIS that it will not be responding to the reexport shall, provided the party submitting the report has taken the steps in paragraph (b) of this section, serve as confirmation, based on the information in the party's submission, that the party has adequately resolved the concerns raised by the red flags. However, such confirmation shall not bind a subsequent enforcement action or prosecution if the submitting party had actual knowledge or actual awareness that the fact or circumstance in question was more likely than not, or if the submission misstated or withheld relevant material information.

(5) If BIS responds as described in paragraph (c)(2)(ii) of this section and the party proceeds without taking the additional steps to resolve the concerns, then it will not qualify for the safe harbor.

(6) In this paragraph (c), the date of BIS's receipt of the report shall be the date of receipt by the Office of Enforcement Analysis as recorded in a log maintained by that office for this purpose and the date of BIS's response shall be the postmark date of BIS's response.

PART 772—[AMENDED]

14. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

15. In § 772.1 revise the definition of *knowledge* to read as follows:

§ 772.1 Definition of terms as used in the Export Administration Regulations (EAR).

* * * * *

Knowledge. When referring to an actor in a transaction that is subject to the EAR, knowledge (the term may appear in the EAR as a variant, such as ''know,'' ''reason to know,'' or ''reason to believe'') of a fact or circumstance relating to the transaction includes not only positive knowledge that the fact or circumstance exists or is substantially certain to occur, but also an awareness that the existence or future occurrence of the fact or circumstance in question is more likely than not. Such awareness is inferred, *inter alia,* from evidence of the conscious disregard of facts and is also inferred from a person's willful avoidance of facts. This usage of ''knowledge'' incorporates an objective, ''reasonable person'' standard. Under that standard, a party would have knowledge of a fact or circumstance if a reasonable person in that party's situation would conclude, upon consideration of the facts and circumstances, that the existence or future occurrence of the fact or circumstance in question is more likely than not. **Note:** This definition applies to §§ 730.8(a)(4)(iv); 732.1(d)(1)(x); 732.3(m); 732.4(a); Supp. No. 2 to part 732; §§ 734.2(b)(2)(ii); 736.2(b)(7); 736.2(b)(10); Supp. No. 2 to part 736, Administrative Order Two, paragraph (a)(1)(ii)(E); §§ 740.13(e)(4); 740.13(e)(6); 740.16(i); 740.17(e)(3); 740.5; 740.7(b)(4); 740.9(a)(3)(iii)(B); 742.10(a)(2)(ii) ; 742.8(a)(2); Supp. No. 6 to part 742, paragraph (d)(1); §§ 744.17; 744.2; 744.3; 744.4; 744.5; 744.6; 745.1(a)(1)(ix); 746.3(a)(4), 746.3(f)(2)(i), 746.7(a)(2)(ii); 748.11(e)(4)(ii)(2); 748.14(g)(2)(vii); 748.3(c)(2)(iii); 748.4(d)(1); 748.9(g)(3); Supp. No. 1 to part 748; Supp. No. 2 to Part 748, paragraphs (g)(2)(iii) and (iv); Supp. No. 2 to Part 748, paragraph (j)(3)(ii); Supp. No. 2 to Part 748, paragraph (l); Supp. No. 2 to Part 748, paragraph (o)(3)(i); Supp. No. 5 to part 748, paragraph (a)(5)(ii); §§ 750.7(h)(3); 752.4(b); 752.11(c)(12); 752.11(c)(13); 752.4; 754.2(j)(3)(i)(D); 758.3(c); 762.1(a)(2); 762.6(a)(2); 764.2(e); 764.2(f)(2); 764.2(g)(2); Supp. No. 1 to part 764(b), paragraph (d) under the heading ''SECOND'; Supp. No. 1 to part 766, III, A paragraphs headed ''Degree of Willfulness'' and ''Related Violations'; and § 772.1 definition of ''transfer.'' This definition does not apply to part 760 of the EAR (Restrictive Trade Practices or Boycotts) or to the following EAR provisions: §§ 730.8(b); 732.1(c); 732.3(n); 734.1(a); 734.2(b)(3); Supp. No. 1 to part 734, questions D(5) and F(1); 738.4(a)(3); 740.11(c)(1)(ii)(C); 742.12(b)(3)(iv)(B)(8); 742.18; Supp. No 4 to Part 742, paragraph 2; 744.12; 744.14; 745.1(b)(2); 745.2(a)(1); 748.7(a)(2)(ii); 748.11(c)(1); 748.11(c)(3); 748.11(e)(4)(i); 750.8; 752.5(a)(2)(iv); 752.8(d)(9); 754.4(d)(1); 758.7(b)(6); 764.5(b)(5); 764.5(c)(5); 766.3(b); 766.6(b); 770.3(d)(1)(i)(A) and (B); 772.1 definitions of ''basic scientific research,'' ''cryptography,'' ''deformable mirrors,'' ''defense trade controls,'' ''expert systems,'' ''multilevel security,'' ''recoverable commodities and software,'' ''technology,'' and ''time modulated wideband''; Supp. No 1 to part 774, Category 1, ECCN 1C351, Reason for Control paragraph; Supp. No. 1 to part 774, Category 1, ECCN 1C991, Related Controls paragraph; Supp. No 1 to part 774, Category 2, ECCN 2B119 Note to List of Items Controlled; Supp. No. 1 to part 774, Category 3, ECCN 3A001, N.B. to paragraph 8 of List of Items Controlled; Supp. No 1 to part 774, Category 3, ECCN 3A002, Related Definitions and List of Items Controlled; Supp. No. 1 to part 774 Category 3, ECCN 3A225, Heading and List of Items Controlled; Supp. No 1 to part 774, Category 4, ECCN 4A994, List of Items Controlled; and Supp. No. 1 to part 774, Category 6, ECCN 6C004 List of Items Controlled.

* * * * *

Dated: October 5, 2004.

Peter Lichtenbaum,

Assistant Secretary for Export Administration.

[FR Doc. 04–22878 Filed 10–12–04; 8:45 am]

BILLING CODE 3510–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OGC–2004–0004; FRL–7826–1]

National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: On April 14, 2003, pursuant to section 112 of the Clean Air Act (CAA), the EPA issued national emission standards to control hazardous air pollutants emitted from pushing, quenching, and battery stacks at new and existing coke oven batteries. This proposed action would amend the parametric operating limits and associated compliance provisions for capture systems used to control emissions from pushing. This action also would amend the requirements for mobile scrubber cars that capture emissions which occur during pushing and travel.

In the Rules and Regulations section of this **Federal Register**, we are issuing the amendments as a direct final rule. We are making the amendments as a direct final rule without prior proposal because we view the amendments as noncontroversial and anticipate no adverse comments. We have explained our reasons for the amendments in the direct final rule.

If we receive any significant, adverse comments on one or more distinct amendments in the direct final rule, we will publish a timely notice of withdrawal in the **Federal Register** informing the public which amendments will become effective and which amendments are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule (should we decide to issue a final rule). If no significant adverse comments are received, no further action will be taken on the proposal, and the direct final rule will become effective as provided in that action.

The regulatory text for the proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further supplementary information, see the direct final rule.

DATES: *Comments.* Comments must be received on or before November 12, 2004, unless a hearing is held. If a hearing is held, comments must be received on or before November 29, 2004.

ADDRESSES: Submit your comments, identified by Docket ID No. OGC–2004–0004, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Agency Web site: *http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- E-mail: *a-and-r-docket@epa.gov.*
- Fax: (202) 566–1741.
- Mail: Proposed Settlement Agreement in *AISI/ACCCI Coke Oven Environmental Task Force* vs. *U.S. EPA,* No. 03–1167 (D.C. Cir.) Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.
- Hand Delivery: Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B102, Washington, DC. 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. OGC–2004–0004. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov websites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other information, such as copyrighted materials, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy form at the Proposed Settlement Agreement in *AISI/ACCCI Coke Oven Environmental Task Force* vs. *U.S. EPA,* No. 03–1167 (DC Cir.) Docket, Docket ID No. OGC–2004–0004, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Lula Melton, Emission Standards Division, Office of Air Quality Planning and Standards (C439–02), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–2910, fax number (919) 541–3207, e-mail address: melton.lula@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply To Me?

Categories and entities potentially regulated by this action include:

Category	NAICS code [1]	Examples of regulated entities
Industry	331111, 324199	Coke plants and integrated iron and steel mills.
Federal government		Not affected.

Category	NAICS code [1]	Examples of regulated entities
State/local/tribal government		Not affected.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in § 63.7281 of the national emission standards for coke ovens: Pushing, quenching, and battery stacks. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What Should I Consider as I Prepare My Comments for EPA?

Do not submit information containing CBI to EPA through EDOCKET, regulations.gov or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. OGC–2004–0004. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

C. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of today's proposed amendments is also available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the proposed amendments will be placed on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

D. Will There Be a Public Hearing?

If anyone contacts the EPA requesting to speak at a public hearing by October 25, 2004, a public hearing will be held on October 27, 2004. If a public hearing is requested, it will be held at 10 a.m. at the EPA Facility Complex in Research Triangle Park, North Carolina or at an alternate site nearby.

II. Statutory and Executive Order Reviews

For information regarding other statutory and executive order reviews associated with this action, please see the direct final rule located in the Rules and Regulations section of today's **Federal Register**.

A. Paperwork Reduction Act

The proposed action does not impose any new information collection burden. The costs of the information collection requirements associated with the new operating limit and operation and maintenance plan provisions related to the settlement agreement do not increase the existing burden estimates for the final rule. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing rule (40 CFR part 63, subpart CCCCC) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0521, EPA ICR number 1995.02. A copy of the approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR part 63 are listed in 40 CFR part 9.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of today's proposed amendments on small entities, small entity is defined as: (1) A small business according to U.S. Small Business Administration size standards for NAICS codes 331111 and 324199 ranging from 500 to 1,000 employees; (2) a government jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and that is not dominant in its field.

After considering the economic impacts of today's proposed amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives which minimize any significant economic impact of the proposed rule on small entities (5 U.S.C. 603–604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if

the rule relieves regulatory burden, or otherwise has a positive effect on the small entities subject to the rule. The proposed amendments make improvements to the existing standards by adding new compliance options for monitoring of capture systems operating parameters and by adding provisions for a type of control system not covered by the existing standards. We have, therefore, concluded that today's proposed amendments will have no adverse impacts on any small entities and may relieve burden in some cases.

Although the proposed rule amendments will not have a significant economic impact on a substantial number of small entities, we nonetheless tried to reduce the impact of the proposed amendments on small entities. We held meetings with the petitioners to discuss the proposed amendments related to the settlement agreement and have included provisions that address their concerns. We continue to be interested in the potential impacts of the proposed amendments on small entities and welcome comments on issues related to such impacts.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 4, 2004.

Michael O. Leavitt,

Administrator.

[FR Doc. 04–22870 Filed 10–12–04; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 69, No. 197
Wednesday, October 13, 2004

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Stayton, Oregon on Wednesday, November 3, 2004. The meeting is scheduled to begin at 6:30 p.m., and will conclude at approximately 8:30 p.m. The meeting will be held in the South Room of the Stayton Community Center located on 400 West Virginia Street in Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Pub. L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. Tentative agenda items include: Current project updates; finalize project ranking process, begin identifying new projects, discuss District program of work and how councils project recommendations fit in.

A direct public comment period is tentatively scheduled to begin at 8 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to November 3rd by sending them to Designated Federal Official Paul Matter at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Paul Matter; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: October 5, 2004.

Dallas J. Emch,

Forest Supervisor.

[FR Doc. 04–22918 Filed 10–12–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting, Sundance, WY

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Black Hills National Forests' Crook County Resource Advisory Committee will meet Monday, October 18, 2004 in Sundance, Wyoming for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on October 18, begins at 6:30 p.m., at the U.S. Forest Service, Bearlodge Ranger District office, 121 South 21st Street, Sundance, Wyoming. Agenda topics will include: Updates on previously funded projects and a review of new project proposals. A public forum will begin at 8:30 p.m. (MT).

FOR FURTHER INFORMATION CONTACT: Steve Kozel, Bearlodge District Ranger and Designated Federal Officer, at (307) 283–1361.

Dated: October 4, 2004.

Julie Wheeler

Acting Bearlodge District Ranger.

[FR Doc. 04–22917 Filed 10–12–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Grant of Authority; Establishment of a Foreign-Trade Zone; Auburn (Androscoggin County), ME

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * *. the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Lewiston-Auburn Economic Growth Council, a Maine not-for-profit corporation (the Grantee), has made application to the Board (FTZ Docket 14–2004, filed 4/5/04), requesting the establishment of a foreign-trade zone at sites in Auburn (Androscoggin County), Maine, within the Portland, Maine, Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (69 FR 19387, 4/13/04); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 263, at the sites described in the application, and subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 1st day of October, 2004.

Foreign-Trade Zones Board.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 04–22943 Filed 10–12–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1353]

Grant of Authority; Establishment of a Foreign-Trade Zone Southaven (Desoto County), MS

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board adopts the following Order.

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Northern Mississippi FTZ Inc., a Mississippi non-profit corporation (the Grantee), has made application to the Board (FTZ Docket 10–2004, filed 3/16/04), requesting the establishment of a foreign-trade zone in Southaven (DeSoto County), Mississippi, within the Memphis, Tennessee, Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (69 FR 13811, 3/24/04); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 262, at the site described in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 1st day of October 2004.

Foreign-Trade Zones Board.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

Attest: Dennis Puccinelli, Executive Secretary.

[FR Doc. 04–22942 Filed 10–12–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 093004B]

Marine Mammals and Endangered Species; Files No. 782–1702 and 1409

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for amendments.

SUMMARY: Notice is hereby given that the following entities have requested an amendment to their scientific research permits:

Permit No. 782–1702: National Marine Mammal Laboratory (NMML), NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070, (Dr. John Bengtson, Principal Investigator); and

Permit No. 1409: Karen G. Holloway-Adkins, East Coast Biologists, Inc., P.O. Box 33715, Indialantic, FL 32903–3715.

DATES: Written, telefaxed, or e-mail comments must be received on or before November 12, 2004.

ADDRESSES: The amendment requests and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Permit 782–1702: Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426; and

Permit No. 1409: Assistant Regional Administrator for Protected Resources, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5312, fax (727)570–5517.

Written comments or requests for a public hearing on these requests should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on either of these particular amendment requests would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: Permit No. 782–1702 or Permit No. 1409.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, Amy Sloan or Patrick Opay (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendments are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 782–1702 issued to the NMML authorizes the permit holder to capture harbor seals (*Phoca vitulina*), California sea lions (*Zalophusu californianus*), and northern elephant seals (*Mirounga angustirostris*) and to conduct the following activities: tag and brand for long-term identification of individuals and to obtain information on reproductive success, survival and longevity; blood sample for disease screening; blubber biopsy for contaminant analysis; tissue sample for genetic and fatty acid analyses; and attach electronic instruments to document movements, activity and foraging patterns. The Permit also authorizes up to five (5) accidental mortalities of California sea lions each year.

The permit holder has requested an amendment to the permit to increase the number of accidental mortalities of California sea lions from five to seven for the year spanning July 1, 2004 to June 30, 2005. The Permit expires June 30, 2008. During the 2004 summer field season California sea lions captured on a floating trap in the East Mooring Basin at Astoria, Oregon, were left unattended in the trap. When researchers returned to the capture site, five of the seven captured animals were dead or dying. The two remaining live animals were released. Apparently fighting among the animals caught in the trap resulted in the five deaths. The researchers maintain that this was unusual behavior, but to prevent this type of accident from occurring in the future the following mitigation measures will be included in the permit amendment,

if issued: ''On all future captures at least one person must remain in an attending vessel near the trap until all animals can be handled and released into the wild. Should there be future events of uncontrollable highly aggressive fighting among animals in the trap, the animals must be released immediately to preclude mortality of individual animals.''

Permit 1409 issued to Karen G. Holloway-Adkins authorizes take of 100 green sea turtles (*Chelonia mydas*) and 10 loggerhead sea turtles (*Caretta caretta*) annually for scientific research. Turtles are captured, handled, measured, weighed, flipper and PIT tagged, and lavaged. The purpose of the research is to characterize turtle aggregations using the nearshore reefs in central Brevard County, FL as developmental habitat, and to provide information on turtle size class, foraging habitats, and movements.

The permit holder has requested a modification to the permit to allow sonic tags to be attached to 15 green sea turtles, a subset of the turtles already authorized to be taken, to determine distribution and seasonal movements of turtles in nearshore reefs in Brevard County.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the marine mammal application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 7, 2004.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–22939 Filed 10–12–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by November 12, 2004.

Title And OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 215.4, Contract Pricing, and related clause in DFARS 252.215; OMB Control Number 0704–0232.

Type Of Request: Extension.

Number Of Respondents: 310.

Responses Per Respondent: 45.

Annual Responses: 141.

Average Burden Per Response: 37.94 hours.

Annual Burden Hours: 5,350.

Needs And Uses: DoD contracting officers need this information to negotiate an equitable adjustment in the total amount paid or to be paid under a fixed-price redeterminable or fixed-price incentive contract, to reflect final subcontract prices; and to determine if a contractor has an adequate system for generating cost estimates, and monitor correction of any deficiencies.

Affected Public: Businesses or other for profit and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/ESCD/Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: October 5, 2004.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–22970 Filed 10–12–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed Special Technical Area Review (STAR) on Electronics for Reconfigurable Military Systems.

DATES: The STAR will be held at 0830, Tuesday and Wednesday, October 26th and 27th 2004.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 241 18th Street, Crystal Square 4, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The Point of Contact for the meeting is Mr. David Cox, AGED Secretariat, 241 18th Street, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition, Technology and Logistics to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on microwave technology, microelectronics, electro-optics, and electronics materials.

In accordance with section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: October 6, 2004.

Jeannette Owings Ballard

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–22884 Filed 10–12–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Uniformed Services University of the Health Sciences; Meeting Notice

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8 a.m. to 4 p.m., November 9, 2004.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001) 4301 Jones Bride Road, Bethesda, MD 20814–4799.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8 a.m. Meeting—Board of Regents

(1) Approval of Minutes—August 3, 2004

(2) Faculty Matters

(3) Departmental Reports
(4) Financial Report
(5) Report—Interim President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Approval of Degrees—School of Medicine, Graduate School of Nursing
(9) Comments—Chairman, Board of Regents
(10) New Business

CONTACT PERSON FOR MORE INFORMATION: Dr. Barry Wolcott, Executive Secretary, Board of Regents, (301) 295–3681.

Dated: October 7, 2004.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–23111 Filed 10–8–04; 3:30 pm]

BILLING CODE 5001–06–M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, October 27, 2004. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the National Constitution Center, Kirby Auditorium, 525 Arch Street, Independence Mall in Philadelphia, Pennsylvania.

The conference among the commissioners and staff will begin at 9:30 a.m. Topics of discussion will include: an update on the Water Resources Plan for the Delaware River Basin (''Basin Plan'') including a summary of the Watershed Summit of September 13–15 and the transition from planning to implementation; a summary and report on informational meetings on a proposed resolution to amend the Water Quality Regulations, Water Code and Comprehensive Plan to designate the Lower Delaware River as Special Protection Waters; a proposal to amend the Commission's fee schedule for the review of projects under Section 3.8 and Article 10 of the Delaware River Basin Compact by the addition of a late application fee; and a presentation on the structural reorganization of the Delaware Estuary Program.

The business meeting will begin at 11 a.m. The portion of the meeting running from 11 a.m. until 12:15 p.m. will consist of the public hearing on a proposal to amend the Water Quality Regulations, Water Code and Comprehensive Plan by establishing pollutant minimization plan requirements for point and non-point source discharges following issuance of a TMDL or assimilative capacity determination.

The business meeting will resume at 1:30 p.m. Public hearings on the following project review applications will be held during this afternoon portion of the meeting:

1. *Cabot Corporation D–70–72–2.* An application to upgrade an industrial wastewater treatment plant (IWTP) and implement manufacturing operation improvements necessary to meet water quality objectives in Swamp Creek, a tributary of Perkiomen Creek in the Schuylkill River Watershed. The applicant produces primary nonferrous metals and alloys plus inorganic chemicals at its Boyertown Facility, which is located off Swamp Creek Road and straddles the borders of Douglass Township, Montgomery County and Colebrookdale Township, Berks County, both in Pennsylvania. No expansion of the 0.222 million gallon per day (mgd) IWTP is proposed. The plant effluent, along with storm water, cooling water and water supply treatment wastewater, will continue to be discharged to Swamp Creek via the existing outfall. (NAR'd as Cabot Supermetals D–70–72 (REVISION).)

2. *New Jersey-American Water Company D–90–89 CP–3.* An application for the renewal of a ground water withdrawal project to increase withdrawal from 15 mg/30 days to 28.5 mg/30 days to supply the applicant's public water supply system from existing Wells Nos. 1 and 2 in the Kittatinny Limestone formation. The project is located in the Pophandusing Brook Watershed, in White Township, Warren County, New Jersey. (NAR'd as D–90–89 CP RENEWAL 2.)

3. *Waltz Golf Farm, Inc. D–92–49–2.* An application for the renewal of a surface water withdrawal project to continue withdrawal of 9.0 million gallons per 30 days (mg/30 days) to supply the applicant's golf course from an existing man-made pond on Landis Creek in the Lodal Creek Watershed. The project is located in Limerick Township, Montgomery County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Air Products and Chemicals D–93–48–2.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 8.7 million gallons (mg)/30 days to supply the applicant's manufacturing facility from existing Wells Nos. 2 and 4 in the Lehigh River Watershed. The project is located in Glendon Borough, Northampton County, Pennsylvania. (NAR'd as D–93–48 Renewal.)

5. *Blue Ridge Real Estate Company D–93–57–2.* An application for the renewal of a surface water withdrawal project to continue withdrawal of 100 million gallons per 30 days (mg/30 days) from an existing intake in Tobyhanna Creek to supply the applicant's snowmaking operations at the Jack Frost Ski Area. The project is located in Kidder Township, Carbon County, Pennsylvania.

6. *Buckingham Township D–2003–13 CP–1.* An application for approval of a ground water withdrawal project to supply up to 5.18 mg/30 days to the applicant's public water supply distribution system from new Wells Nos. F–4 and F–5, and to increase the combined withdrawal from all wells from 33.2 mg/30 days to 37.5 mg/30 days. New Wells Nos. F–4 and F–5 are located in the Brunswick Formation. The project is located in the Mill Creek Watershed in Buckingham Township, Bucks County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area. (NAR'd as D–2003–13 CP).

7. *Buckingham Township D–2004–15 CP–1.* An application to expand the Township's Furlong Sewage Treatment Plant (STP) from 116,825 gallons per day (gpd) to treat an average flow of 257,312 gpd via additional lagoon treatment systems. The project will continue to provide secondary treatment of flow from residential and commercial development in Buckingham Township, Bucks County, Pennsylvania. The STP is located just east of State Route 263 in Buckingham Township. Additional effluent spray fields and drip irrigation zones are proposed. The project will continue to provide long-term effluent storage and utilize Mill Creek in the Neshaminy Creek Watershed as an alternate discharge point. (NAR'd as D–2004–15 CP).

8. *City of New York Department of Environmental Protection D–2004–28 CP–1.* An application to modify a sewage treatment plant (STP) located at 4 Neversink Drive in the City of Port Jervis, Orange County, New York. The STP has a capacity of 5 million gallons per day and serves the City of Port Jervis. The existing plant provides secondary treatment, and discharges to the Neversink River, upstream from DRBC Special Protection Waters and the Delaware Water Gap National Recreation Area. The proposed modification, which constitutes Phase I of a multi-phase improvement project,

involves the demolition of three Imhoff tanks and construction of two sedimentation basins, plus minor facility upgrades. No increase in STP capacity is proposed.

9. *Exelon Generation Company, LLC D–69–210 CP Final (Revision 12).* An application for temporary approval to modify the Operating Plan of the Limerick Generating Station (LGS), a nuclear-powered electric generating station located in Limerick Township, Montgomery County, Pennsylvania, regarding surface water withdrawal restrictions related to ambient water temperature in the Schuylkill River. The applicant proposes to demonstrate, under controlled conditions, that the withdrawal of Schuylkill River water can continue without adverse impact when the background water temperature exceeds 59 °F, the maximum temperature at which withdrawals can be made under the current docket. In July 2004, an amended application and draft operating and monitoring plan were submitted after discussion with the Commission staff, the State of Pennsylvania and stakeholders. A revised draft operating and monitoring plan was submitted on October 1, 2004 and is attached to the draft docket. The amended application provides for the following:

- A multi-year demonstration period during the remainder of the 2004 season through the 2007 season associated with flow and temperature restrictions in accordance with an approved operating and monitoring plan.
- Withdrawals not to exceed 24 million gallons per day (mgd) of LGS' consumptive cooling water needs during times when the Schuylkill River 24-hour average river ambient water temperature exceeds 59 °F and when the 24-hour average river flow is at or below 1,791 cubic feet per second (cfs) (but above 560 cfs) at the gaging station at Pottstown.
- Withdrawals of LGS' entire consumptive cooling water needs during times when the Schuylkill River 24-hour average river ambient water temperature exceeds 59 °F and when the 24-hour average river flow exceeds 1,791 cfs.
- Maintenance of minimum flow of at least 10 cfs in the East Branch Perkiomen Creek at all times in accordance with the draft Demonstration Operation and Monitoring Plan for the Joint Limerick Generating Station Water Supply Modification Demonstration and Wadesville Mine Pool Withdrawal & Stream Flow Augmentation Project that was submitted by Exelon.
- Development of recreational flow management plans to increase flows in the East Branch Perkiomen Creek above 10 cfs to support specific short-term recreational events.
- Establishment of a restoration and monitoring fund based on $0.06/1,000 gallons of makeup water that is not required for LGS consumptive cooling water needs due to lifting the 59 °F temperature requirement. Flows pumped to the EBPC during periods when the 59 °F restriction would have been in effect, but not used for consumptive cooling water needs at the LGS, will be credited against this fund.
- Working with stakeholders regarding the design and implementation of the demonstration and restoration projects during 2005 and future years.
- Test periods with no augmentation/makeup waters supplied for LGS consumptive cooling water needs (beyond the minimum 10 cfs flows in the East Branch Perkiomen Creek).
- The continuation of the Wadesville Mine Pool withdrawal and Stream Flow Augmentation Demonstration Project that was approved under Docket No. D–69–210 CP (Final) (Revision 11) and extended for one year by Commission Resolution No. 2003–25 adopted December 3, 2003.

In addition to the items listed above, the afternoon portion of the Commission's business meeting will include the public hearing on a resolution to amend the Water Quality Regulations, Water Code and Comprehensive Plan to designate the Lower Delaware River as Special Protection Waters. In addition, the meeting will include: Adoption of the Minutes of the September 1, 2004 business meeting; announcements; a report on Basin hydrologic conditions; a report by the executive director; a report by the Commission's general counsel; and an opportunity for public dialogue.

Draft dockets and materials relating to the other items scheduled for public hearing on October 27, 2004 will be posted on the Commission's Web site, *http://www.drbc.net,* where they can be accessed through the Home Page or the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500 ext. 221 with any docket-related questions.

Please contact the office of the Commission secretary, Pamela M. Bush, by phoning 609–883–9500 ext. 224, if you wish to offer comment on any of the items scheduled for public hearing.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the office of the Commission secretary at 609–883–9500 ext. 224 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission may accommodate your needs.

Dated: October 5, 2004.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 04–22908 Filed 10–12–04; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–422–000]

Dominion Transmission, Inc., Tennessee Gas Pipeline Company, National Fuel Gas Supply Corporation; Notice of Filing

October 5, 2004.

Take notice that on September 28, 2004, Dominion Transmission, Inc. (Dominion), 120 Tredegar Street, Richmond, Virginia 23219; Tennessee Gas Pipeline Company (Tennessee), 9 Greenway Plaza, Houston, Texas 77046; and National Fuel Gas Supply Corporation (National Fuel), 6363 Main Street, Williamsville, New York 14221 (collectively, the Applicants) filed a joint abbreviated application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act (NGA) and part 157 of the Commission's Rules and Regulations. The Applicants request authorization to modify operations of the jointly-owned Ellisburg Storage Pool in Potter County, Pennsylvania. The application is on file with the Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The current certificated capacity at Ellisburg Storage Pool is 98.43 Bcf, comprised of 52.53 Bcf of top gas

capacity and 45.9 Bcf of base gas. The Applicants propose to modify operations at the Ellisburg Storage Pool by reducing the existing authorized base gas level by 3.0 billion cubic feet (Bcf) and increasing top gas capacity by 3.0 Bcf. Dominion's total authorized base and top gas levels will not be changed, in light of the corresponding proposed changes at the Woodhull facility. The additional capacity available for service by Tennessee and National Fuel will be offered on an open-access basis. There are no changes in the existing facilities and no capital investments required to implement the proposed change in operations.

Any questions regarding the application are to be directed to Anne E. Bomar, Managing Director Transmission Rates and Regulation, 120 Tredegar Street, Richmond, Virginia 23219; phone number (804) 819–2134.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: 5 p.m. eastern time on October 26, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2581 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR04–15–000]

Enogex Inc.; Notice of Petition for Rate Approval

October 4, 2004.

Take notice that on September 29, 2004, Enogex Inc. (Enogex) tendered for filing a revised lower fuel factor for its Enogex System for the last quarter of Fuel Year 2004 as calculated pursuant to the formulas in Enogex's filed fuel tracker. Enogex seeks an effective date of October 1, 2004.

Enogex states that it is serving notice of the filing and the revised fuel percentage on all current shippers.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2588 Filed 10–12–04; 8:45 am]

BILLING CODE

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–118–009]

High Island Offshore System, L.L.C.; Notice of Negotiated Rate Filing

October 4, 2004.

Take notice that on September 28, 2004, High Island Offshore System, L.L.C. (HIOS) tendered for filing and approval a negotiated rate arrangement between HIOS and Hunt Petroleum (AEC), Inc.

HIOS requests that the Commission accept and approve the negotiated rate arrangement to be effective September 1, 2004.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2587 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–612–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2004.

Take notice that on September 28, 2004, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective October 29, 2004.

Title Page
Thirteenth Revised Sheet No. 200
Tenth Revised Sheet No. 239
Seventh Revised Sheet No. 280
Ninth Revised Sheet No. 281
Fourth Revised Sheet No. 284

Northwest states that the purpose of this filing is to update its tariff to reflect the information required by Order No. 2004. Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2591 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–614–000]

Ozark Gas Transmission, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2004.

Take notice that on September 29, 2004, Ozark Gas Transmission, L.L.C. (Ozark) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to be effective October 29, 2004:

Second Revised Sheet No. 64,
First Revised Sheet No. 82,
Third Revised Sheet No. 83,
Second Revised Sheet No. 84.

Ozark states that the purpose of its filing is to replace obsolete references to the repealed Order Nos. 497, *et al.*, standards of conduct in its FERC Gas Tariff with references to the new Standards of Conduct adopted by the Commission in Order Nos. 2004, *et al.*

Ozark further states that it has served copies of this filing upon the company's jurisdictional customers and interested State commissions. Questions concerning this filing may be directed to counsel for Ozark, James F. Bowe, Jr., Dewey Ballantine LLP, at (202) 429–1444, fax (202) 429–1579, or *jbowe@deweyballantine.com.*

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2580 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–610–000]

Texas Gas Transmission, LLC; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2004.

Take notice that on September 24, 2004, Texas Gas Transmission, LLC, (Texas Gas) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, to become effective October 25, 2004:

First Revised Original Sheet No. 277.

Texas Gas states that the purpose of this filing is to propose a revision to the General Terms and Conditions (GT&C) of Texas Gas's tariff in section 31.2, types of discounts, so that Texas Gas may offer an additional type of transportation discount based on published index prices for specific receipt or delivery points or other agreed upon pricing reference points for price determination. The proposed tariff change will not affect Texas Gas's overall revenue requirement.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2589 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–613–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2004.

Take notice that on September 29, 2004, Transcontinental Gas Pipe Line Corporation (Transco or Applicant) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Fourth Revised Sheet No. 312 to become effective October 29, 2004.

Transco states that the purpose of the instant filing is to update the Delivery Point Entitlement (DPE) tariff sheet for Eastern Shore Natural Gas Company in accordance with the provisions of Section 19.1(f) of the General Terms and Conditions of Transco's Third Revised Volume No. 1 Tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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Magalie R. Salas,

Secretary.

[FR Doc. E4–2592 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–611–000]

Transwestern Pipeline Company; Notice of Tariff Filing

October 4, 2004.

Take notice that on September 27, 2004, Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 (Tariff), the following tariff sheet to become effective November 1, 2004:

Second Revised Volume No. 1.
Fourteenth Revised Sheet No. 5B.03.

Transwestern states that pursuant to Section 25 of the General Terms and Conditions of Transwestern's FERC Tariff, Transwestern is filing a tariff sheet, setting forth the new TCR II reservation surcharges that Transwestern proposes to put into effect on November 1, 2004.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2590 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–1–000]

Union Power Partners, L.P., Complainant v. Entergy Services, Inc. Entergy Operating Companies, Respondents; Notice of Complaint

October 5, 2004.

Take notice that on October 4, 2004, Union Partners, L.P. (Union) filed a Complaint against the Entergy Operating Companies and Entergy Services, Inc. (collectively, Entergy) pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206). Union asserts that Entergy, in violation of its Open Access Transmission Tariff (OATT) and Commission pricing policy, has unjustly and unreasonably failed to provide transmission credits, with interest, associated with network facilities paid for by Complainant. Union requests a Commission order directing Entergy to amend certain interconnection agreements to provide transferability of transmission credits.

Union states that it has served by e-mail, messenger, or overnight delivery on Entergy.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on October 25, 2004.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–2579 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL04–140–000, et al.]

Pasco Cogen, Ltd., et al.; Electric Rate and Corporate Filings

October 5, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Pasco Cogen, Ltd.

[Docket Nos. EL04–140–000 and QF92–156–006]

Take notice that on September 30, 2004, Pasco Cogen, Ltd. (Pasco) submitted a request for a temporary waiver of the operating standards for its qualifying cogeneration facility located in Dade City, Florida, pursuant to section 292.205(c) of the Commission's regulations in the above caption dockets. Pasco states that the waiver being requested is for calendar years 2004 and 2005.

Comment Date: 5 p.m. eastern time on October 21, 2004.

2. Union Power Partners, L.P., Complainant v. Entergy Services, Inc., Entergy Operating Companies, Respondents

[Docket No. EL05–1–000]

Take notice that on October 4, 2004, Union Partners, L.P. (Union) filed a Complaint against the Entergy Operating Companies and Entergy Services, Inc. (collectively, Entergy) pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206). Union asserts that Entergy, in violation of its Open Access Transmission Tariff (OATT) and Commission pricing policy, has unjustly and unreasonably failed to provide transmission credits, with interest, associated with network facilities paid for by Complainant.

Union requests a Commission order directing Entergy to amend certain interconnection agreements to provide transferability of transmission credits.

Union states that it has served by e-mail, messenger, or overnight delivery on Entergy.

Comment Date: 5 p.m. eastern time on October 25, 2004.

3. New England Power Pool and ISO New England Inc.

[Docket No. ER02–2330–031]

Take notice that on September 30, 2004, ISO New England Inc. (ISO) submitted a Status Report on Development of Day-Ahead Load Response Program in Docket No. ER02–2330–031 as directed by the Commission in its November 17, 2003, Order on Requests for Rehearing and Compliance Filing, 105 FERC ¶61,211.

ISO states that copies of the filing have been served on all parties to the above-captioned proceeding.

Comment Date: 5 p.m. eastern time on October 21, 2004.

4. Tucson Electric Power Company and UNS Electric, Inc.

[Docket No. ER04–460–003]

Take notice that on September 30, 2004, Tucson Electric Power Company (Tucson Electric) and UNS Electric Inc. (UNS Electric) filed an amendment to their July 14, 2004, filing submitted in compliance with the Commission(s June 4, 2004, order in Docket No. ER04–442–000, *et al.* Tucson requests an effective date of April 26, 2004.

Comment Date: 5 p.m. eastern time on October 21, 2004.

5. Entergy Services, Inc.

[Docket No. ER04–763–003]

Take notice that on September 30, 2004, Entergy Services, Inc., (Entergy), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., submitted an errata filing to correct the Order No. 614 designation of one tariff sheet included in Entergy's August 9, 2004, regional reliability variations compliance filing for Entergy's Large Generator Interconnection Procedures pursuant to *Entergy Services, Inc.,* 108 FERC ¶61,020 (2004).

Comment Date: 5 p.m. eastern time on October 21, 2004.

6. Entergy Services, Inc.

[Docket No. ER04–830–002]

Take notice that on September 30, 2004, Entergy Services, Inc., (Entergy), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., submitted an errata filing to correct the Order No. 614 designation of several tariff sheets included in Entergy's August 9, 2004, compliance filing for Entergy's Large Generator Interconnection Procedures pursuant to *Entergy Services, Inc.,* 108 FERC ¶ 61,029 (2004).

Comment Date: 5 p.m. eastern time on October 21, 2004.

7. Illinois Power Company

[Docket No. ER04–1092–001]

Take notice that on September 29, 2004, Illinois Power Company (Illinois Power) submitted for filing Service Agreement No. 390, pursuant to which Illinois Power takes Network Integration Transmission Service under its Open Access Transmission Tariff for the purpose of serving retail native load customers, revised in compliance with the Commission's order issued September 1, 2004, in Docket No. ER04–1092–000.

Comment Date: 5 p.m. eastern time on October 20, 2004.

8. PJM Interconnection, L.L.C.

[Docket No. ER03–1101–006]

Take notice that on September 29, 2004, PJM Interconnection, L.L.C. (PJM) filed a supplement to its September 22, 2004, report in Docket No. ER03–1101–005 on the effects of PJM's credit policy for virtual bidders, to provide information on the numbers and megawatt-hours of bids by market participants engaged in virtual bidding.

PJM states that copies of this filing have been served on all persons listed on the official service list compiled by the Secretary in this proceeding.

Comment Date: 5 p.m. eastern time on October 20, 2004.

9. Oregon Electric Utility Company, Portland General Electric Company, Portland General Term Power Procurement Company

[Docket No. ER04–1206–001]

Take notice that on September 29, 2004, Oregon Electric Utility Company (OEUC), Portland General Electric Company and Portland General Term Power Procurement Company submitted for filing import capability data in support of the application filed September 8, 2004, in Docket No. ER04–1206–000.

Comment Date: 5 p.m. eastern time on October 20, 2004.

10. ISO New England, Inc.

[Docket No. ER04–1255–000]

Take notice that on September 29, 2004, as amended September 30, 2004, ISO New England Inc. (ISO) submitted an application to revise provisions of Appendix E to Market Rule 1 regarding the Day-Ahead Load Response Program.

ISO states that copies of the filing have been served on all NEPOOL Participants, and the Governors and utility regulatory agencies of the New England States.

Comment Date: 5 p.m. eastern time on October 21, 2004.

11. The Dayton Power and Light Company

[Docket No. ER04–1256–000]

Take notice that on September 30, 2004, The Dayton Power and Light Company (Dayton) tendered for filing a Local Delivery Service Agreement with Buckeye Power, Inc.

Comment Date: 5 p.m. eastern time on October 21, 2004.

12. Alabama Power Company

[Docket No. ER04–1260–000]

Take notice that on September 30, 2004, Alabama Power Company (APC),

submitted for filing amendments to the Index of Purchasers of Rate Schedule REA–1 of APC's FERC Electric Tariff, Original Volume No. 1. APC states that the Index of Purchasers has been revised to remove certain of the delivery points for Black Warrior Electric Membership Corporation and Tombigbee Electric Cooperative, Inc.

Comment Date: 5 p.m. eastern time on October 21, 2004.

13. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–1261–000]

Take notice that on September 30, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Midwest ISO Transmission Owners, and the Midwest Stand Alone Transmission Companies (Filing Parties) submitted for filing proposed revisions to Midwest's ISO Open Access Transmission Tariff to accommodate Illinois Power Company becoming a new transmission owner member of the Midwest ISO. The Filing Parties request an effective date of October 1, 2004.

The Filing Parties have also requested waiver of the service requirements set forth in 18 CFR 385.2010. Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, as well as all State commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading Filings to FERC for other interested parties in this matter. Midwest ISO also states that it will provide hard copies to any interested parties upon request.

Comment Date: 5 p.m. eastern time on October 21, 2004.

14. Illinois Power Company

[Docket No. ER04–1262–000]

Take notice that on September 30, 2004, Illinois Power Company (Illinois Power) tendered for filing a Notice of Cancellation for certain service agreements under its Open Access Transmission Tariff. Illinois Power requests and effective date of October 1, 2004.

Comment Date: 5 p.m. eastern time on October 21, 2004.

15. New York Independent System Operator, Inc.

[Docket No. ER04–1263–000]

Take notice that on September 30, 2004, the New York Independent System Operator, Inc. (NYISO) submitted proposed revisions to its Open Access Transmission Tariff to enable the NYISO to recover or return the net of any financial settlements that may result pursuant to a limited testing program of virtual regional dispatch concepts with a neighboring control area.

NYISO states that it has electronically served a copy of this filing on the official representative of each of its Market Participants, on each participant in its stakeholder governance committees, and on the New York Public Service Commission and New Jersey Board of Public Utilities. The NYISO has also served the electric utility regulatory agency of Pennsylvania.

Comment Date: 5 p.m. eastern time on October 20, 2004.

16. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–1264–000]

Take notice that on September 30, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Midwest ISO Transmission Owners, and the Midwest Stand Alone Transmission Companies (collectively, Filing Parties) submitted for filing proposed revisions to the Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation to accommodate Illinois Power Company becoming a new transmission owner member of the Midwest ISO. The Filing Parties request an effective date of October 1, 2004.

The Filing Parties state that they have also requested waiver of the service requirements set forth in 18 CFR 385.2010. Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading Filings to FERC for other interested parties in this matter. Midwest ISO also state that they will provide hard copies to any interested parties upon request.

Comment Date: 5 p.m. eastern time on October 21, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2578 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC04–163–000, et al.]

LenderCo, et al.; Electric Rate and Corporate Filings

October 4, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. LenderCo; Panda Gila River I, LLC, Panda Gila River II, LLC, Union Power I, LLC, Union Power II, LLC

[Docket No. EC04–163–000]

Take notice that on September 30, 2004, Panda Gila River I, LLC, Panda Gila River II, LLC, Union Power I, LLC, Union Power II, LLC (collectively, the TECO Applicants) and LenderCo (together with the TECO Applicants,

Applicants) submitted an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities held indirectly by the TECO Applicants. Applicants state that the proposed disposition of jurisdictional facilities is directly related to the disposition of an approximately 2,200 MW natural gas-fired, combined cycle electric generating facility located in Union County, Arkansas and an approximately 2,200 MW natural gas-fired, combined cycle electric generating facility located in Gila Bend, Arizona.

Comment Date: 5 p.m. Eastern Time on October 21, 2004.

2. LSP-Kendall Energy, LLC, Granite II Holding, LLC, LSP Kendall Holding, LLC

[Docket No. EC04–164–000]

Take notice that on September 30, 2004, LSP-Kendall Energy, LLC (LSP-Kendall), Granite II Holding, LLC (Granite II) and LSP Kendall Holding LLC (Holding) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization for the disposition of jurisdictional facilities in connection with the sale by Granite II to Holding of all of the issued and outstanding membership interests in LSP-Kendall, which owns an approximately 1,160 MW combined cycle electric generation facility located in Kendall County, Illinois.

Comment Date: 5 p.m. Eastern Time on October 21, 2004.

3. Northern Iowa Windpower LLC

[Docket No. EG04–104–000]

On September 30, 2004, Northern Iowa Windpower LLC (Northern Iowa) filed with the Federal Energy Regulatory Commission an Application for Redetermination of Exempt Wholesale Generator Status pursuant to part 365 of the Commission's regulations.

Northern Iowa owns and operates a wind-powered eligible facility with a capacity of 80 megawatts, powered by eighty-nine wind turbine generators, which is located in Worth County, Iowa.

Comment Date: 5 p.m. Eastern Time on October 15, 2004.

4. Wisconsin Public Service Corporation; Wisconsin Public Service Corporation, WPS Power Development, Inc., WPS Energy Services, Inc.

[Docket Nos. ER95–1528–008 and ER96–1088–033]

Take notice that, on September 27, 2004, Wisconsin Public Service Corporation (WPSC), WPS Energy Services, Inc. and WPS Power Development, Inc. (and its subsidiaries) (collectively, the WPSR Companies), submitted a three-year update of the justification for their authorization to sell power at market-based rates.

WPSR Companies state that copies of this filing have been served on the Public Service Commissions of Wisconsin, Michigan and Maine.

Comment Date: 5 p.m. Eastern Time on October 18, 2004.

5. AmerGen Energy Company, LLC; Commonwealth Edison Company, Exelon Energy Company, Exelon Framingham, LLC, Exelon Generation Company, LLC, Exelon New Boston, LLC, Exelon New England Power Marketing, L.P., Exelon West Medway, LLC, Exelon Wyman, LLC, PECO Energy Company, Unicom Power Marketing, Inc.

[Docket Nos. ER99–754–009, ER98–1734–007, ER97–3954–017, ER01–513–006, ER00–3251–007, ER99–2404–005, ER01–513–006, ER01–513–007, ER01–513–008, ER99–1872–008, and ER01–1919–004]

Take notice that on September 27, 2004, Exelon Generation Company, LLC (Exelon) and its affiliates listed above (jointly Exelon), submitted for filing generation market power screens and other analyses performed for Exelon in compliance with the Commission's orders issued April 14, 2004 and July 8, 2004 107 FERC ¶ 61,018 (2004) and 61,026 (2004).

Comment Date: 5 p.m. Eastern Time on October 18, 2004.

6. Pinnacle West Capital Corporastion, Arizona Public Service Company, Pinnacle West Energy Corporation, APS Energy Service Company, Inc.

[Docket Nos. ER00–2268–006, ER99–4124–004, ER00–3312–005, and ER99–4122–007]

Take notice that on September 28, 2004, the Pinnacle West Capital Corporation (PWCC), the Arizona Public Service Company, the Pinnacle West Energy Corporation and APS Energy Services, Company, Inc. (collectively the Pinnacle West Companies), filed a supplement to its market update for authorization to sell at market-based rates and various tariff amendments filed on August 11, 2004, pursuant to the request of Commission staff.

Comment Date: 5 p.m. Eastern Time on October 15, 2004.

7. Pacific Gas and Electric Company

[Docket No. ER04–13–004]

Take notice that on September 29, 2004, Pacific Gas and Electric Company (PG&E) submitted a compliance filing pursuant to the Commission's order issued August 3, 2004 in Docket No. ER04–13–000 and 001.

PG&E states that copies of this filing have been served upon the parties of record in FERC Docket No. ER04–13–000 and ER04–13–001, Duke Energy Moss Landing, LLC, the California Independent System Operator Corporation, and the California Public Utilities Commission.

Comment Date: 5 p.m. Eastern Time on October 20, 2004.

8. Entergy Services, Inc.

[Docket No. ER04–699–000]

Entergy Services, Inc.

[Docket Nos. ER03–1272–002 and ER03–1272–003]

As announced in a Notice of Technical Conference, issued September 27, 2004, in the above referenced proceedings, a technical conference will be held on October 8, 2004, in Jackson, Mississippi. The conference will be held from 9:30 a.m. to 3:30 p.m. (Central Time) at the Mississippi Department of Education Building, 359 N. West Street, Jackson, Mississippi (parking for this meeting is available in the Robert E. Lee Building, directly across the street from the Department of Education Building, on the 7th and 8th floors of the garage). Members of the Federal Energy Regulatory Commission are expected to participate, along with Entergy Services, Inc's (Entergy) state and local utility regulators.

Following is a description of how the conference will be organized. To encourage dialog and discussion, the Commission is not expecting presentations or prepared remarks from market participants. Rather, the Commission intends this to be a working session.

The morning session will address Entergy's Weekly Procurement Process (WPP) proposal. Issues we would like to explore include: Transparency of information; refinement of the types of products to be offered through the WPP; the interplay of the WPP and the Available Flowgate Capability (AFC); the respective roles and responsibilities of the Independent Coordinator of Transmission (ICT), Entergy Management Organization (EMO), and Entergy Transmission in the WPP; to what extent do customers benefit from better economic dispatch; and any additional issues or concerns that participants wish to discuss related to the WPP.

We note that Entergy and the market participants have had two meetings in our offices intended as a follow-up to address certain questions and concerns expressed during the July 28 and 29, 2004 Technical Conference held in New Orleans. We will first provide Entergy

and the market participants the opportunity to provide us with an update on any progress made to resolve issues.

The afternoon session will discuss the ICT proposal. Specifically, issues we would like to explore include: how could the ICT proposal be changed to be more independent; what additional roles or functionalities should the ICT assume; and what stakeholder processes, if any, would be appropriate for the ICT, in its formation and on-going operations.

Parties will have the opportunity to file supplemental comments following the conclusion of the conference.

The conference is open for the public to attend and preregistration is not required; however, attendees are asked to register for the conference on-line by close of business on Wednesday, October 6, at *http://www.ferc.gov/whats-new/registration/entergy-1008-form.asp*. Attendees may also register on-site.

Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's e-Library seven calendar days after FERC receives the transcript.

For additional information, please contact Anna Cochrane at (202) 502–6357; *anna.cochrane@ferc.gov*, or Sarah McKinley at (202) 502–8004; *sarah.mckinley@ferc.gov*.

9. Xcel Energy Operating Companies, Northern States Power Company d/b/a Xcel Energy

[Docket No. ER04–1107–001]

Take notice that on September 29, 2004, Xcel Energy Services Inc. (XES) on behalf of Northern States Power Company d/b/a Xcel Energy (NSP) filed an amendment to its August 10, 2004 filing in Docket No. ER04–1107–000, a signed Contract for Interconnection, Load Control Boundary and Maintenance between NSP and the United States Department of Energy Western Area Power Administration (Pick-Sloan Missouri Basin Program, Eastern Division) (WAPA) dated July 12, 2004. XES proposes that the Interconnection Agreement be designated as Rate Schedule 446-NSP to the Xcel Energy Operating Companies FERC Electric Tariff, Original Volume No. 3. XES requests an effective date of August 10, 2004.

Comment Date: 5 p.m. Eastern Time on October 12, 2004.

10. PPL University Park, LLC

[Docket No. ER04–1111–002]

Take notice that on September 28, 2004, PPL University Park, LLC (PPL University Park) submitted a corrected revised sheet to its FERC Electric Tariff, Original Volume No. 1 to replace a sheet submitted with its August 11, 2004 filing, as amended on August 13, 2004, in Docket No. ER04–1111–000.

PPL University Park states that copies of the filing were served upon PJM Interconnection, L.L.C., New York Independent System Operator, Inc. and ISO New England Inc., and parties on the official service list in the above-captioned proceeding.

Comment Date: 5 p.m. Eastern Time on October 19, 2004.

11. Westar Energy, Inc.

[Docket No. ER04–1150–001]

Take notice that on September 28, 2004, Westar Energy, Inc. (Westar) submitted an amendment to its August 25, 2004 filing in Docket No. ER04–1150–000. Westar states that the amendment removes the request for the deletion of Westar's need to submit a revised Exhibit II when delivery points are added or changed.

Westar states that a copy of this filing was served upon the Kansas Corporation Commission, Kaw Valley Electric Cooperative, Nemaha-Marshall Electric Cooperative Association, Inc. and Doniphan Electric Cooperative.

Comment Date: 5 p.m. Eastern Time on October 19, 2004.

12. Styrka Energy Master Fund LLC

[Docket No. ER04–1251–000]

Take notice that on September 28, 2004, Styrka Energy Master Fund LLC (Applicant) tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting Styrka Energy Master Fund LLC's FERC Electric Rate Schedule No. 1. Applicant states that it is seeking authority to make sales of electrical capacity, energy, ancillary services, and Firm Transmission Rights, Congestion Credits, Fixed Transmission Rights, and Auction Revenue Rights (collectively, FTRs), as well as reassignments of transmission capacity, to wholesale customers at market-based rates. Applicant requests and effective date of October 1, 2004.

Comment Date: 5 p.m. Eastern Time on October 19, 2004.

13. Midwest Independent Transmission System Operator, Inc., Ameren Services Company

[Docket No. ER04–1252–000]

Take notice that on September 28, 2004, Midwest Independent Transmission System Operator, Inc., (Midwest ISO) and Ameren Services Company (Ameren) (collectively, Applicants) filed with the Commission a Joint Application Under section 205 of the Federal Power Act for Approval of Transition to Formulae Rate. Applicants requests an effective date of October 1, 2004.

Comment Date: 5 p.m. Eastern Time on October 19, 2004.

14. Central Maine Power Company

[Docket No. ER04–1253–000]

Take notice that on September 29, 2004, Central Maine Power Company (CMP) submitted an Executed Continuing Site/Interconnection Agreement (CSIA) between CMP and FPL Energy Maine, Inc., which replaces an unexecuted CSIA filed with the Commission on March 19, 2004 in Docket No. ER04–425–000 and accepted for filing by the Commission on June 16, 2004. CMP states that this executed CSIA, which is intended to replace the unexecuted CSIA without changing any terms and conditions, is designated as FERC Electric Tariff, Fifth Revised, Volume No. 3, Third Revised Service Agreement No. 158, effective December 23, 2003.

Comment Date: 5 p.m. Eastern Time on October 20, 2004.

15. Public Service Company of New Mexico

[Docket No. ER04–1257–000]

Take notice that on September 30, 2004, Public Service Company of New Mexico (PNM) submitted for filing with the Commission pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d (2000), a First Revised Network Integration Transmission Service Agreement (NITSA) and First Revised Network Operating Agreement (NOA) between PNM and The Incorporated County of Los Alamos, New Mexico (LAC) under PNM's Open Access Transmission Tariff. PNM states that the NITSA and NOA have been modified to reflect current business arrangements between PNM and LAC, including updates to the billing credit mechanism under the NITSA. PNM requests an effective date of October 1, 2004.

PNM states that a copy of the filing was served upon LAC, and informational copies were served upon the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: 5 p.m. Eastern Time on October 21, 2004.

16. Public Service Company of New Mexico

[Docket No. ER04–1258–000]

Take notice that on September 30, 2004, Public Service Company of New

Mexico (PNM) submitted for filing with the Commission pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d (2000), a Third Revised Network Integration Transmission Service Agreement (NITSA) and Third Revised Network Operating Agreement (NOA) between PNM and Tri-State Generation and Transmission Association, Inc. (Tri-State) under PNM's Open Access Transmission Tariff. PNM states that the NITSA and NOA have been updated to reflect revised levels of operating reserves to be provided by Tri-State, and to reflect current business arrangements between PNM and Tri-State. PNM requests an effective date of October 1, 2004.

PNM states that a copy of the filing was served upon Tri-State, and informational copies were served upon the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: 5 p.m. Eastern Time on October 21, 2004.

17. Pacific Gas and Electric Company

[Docket No. ER04–1259–000]

Take notice that on September 29, 2004, Pacific Gas and Electric Company (PG&E) tendered for filing the Large Facilities Authorization Letter No. 3, the Small Facilities Authorization Letter No. 7, and the Other Facilities Authorization Letter, submitted pursuant to the procedures for implementation (Procedures) of section 3.3 of the 1987 Agreement between PG&E and the City and County of San Francisco (City). PG&E states that this is PG&E's sixth quarterly filing submitted pursuant to section 4 of the Procedures, which provides for the quarterly filing of Facilities Authorization Letters.

PG&E states that copies of this filing have been served upon City, the California Independent System Operator Corporation, and the California Public Utilities Commission.

Comment Date: 5 p.m. Eastern Time on October 21, 2004.

18. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C; Midwest Independent Transmission System Operator, Inc., et al.; Ameren Services Company, et al.; Midwest Independent Transmission System Operator, Inc., et al.

[Docket No. ER05–6–000, EL02–111–019, EL03–212–016, and EL04–135–000]

Take notice that on October 1, 2004, the Unified Plan Proponents, consisting of transmission owners, independent transmission companies, transmission-dependent utilities, municipal and cooperative entities, independent generators, power marketers, retail customers, consumer advocates, and state commissions, jointly submitted for filing, in the above-captioned dockets, a long-term transmission rate design proposal, for the combined Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and PJM Interconnection, L.L.C. (PJM) region, and related Offer of Settlement, pursuant to *section 205 of the Federal Power Act,* 16 U.S.C. 824d, Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602, and the Going-Forward Principles and Procedures approved by the Commission by Order dated March 19, 2004, in Midwest Independent Transmission System Operator, Inc., *et al.*, 106 FERC ¶ 61,262 (2004).

The Unified Plan Proponents propose to make their submittal effective as a single integrated package on December 1, 2004.

The Unified Plan Proponents also have requested waiver of the service requirements set forth in 18 CFR 385.2010. The Unified Plan Proponents have electronically served a copy of this filing, with attachments, upon the official LISTSERVE in Docket No. EL02–111–000, *et al.*, and all Midwest ISO and PJM members and posted it on the websites of Midwest ISO and PJM.

Also take notice that on October 1, 2004, Allegheny Power, Ameren Services Corporation, American Electric Power Service Corporation, Exelon Corporation, Illinois Power Company and LG&E Energy, L.L.C., jointly submitted for filing, in Docket Nos. EL02–111–019, EL03–212–016 and EL04–135–000, a long-term transmission pricing proposal. They state that copies of this filing were served on parties on the official service list in Docket Nos. EL02–111–000 and EL03–212–000.

Comment Date: 5 p.m. Eastern Time on October 15, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2596 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2035–039 Colorado]

City and County of Denver; Notice of Availability of Environmental Assessment

October 5, 2004.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's regulations (18 CFR part 380), Commission staff have reviewed an application for amendment of license for the Gross Reservoir Project, filed April 22, 2004, to: (1) Change the location of the project powerhouse and install two turbines with synchronous generators, (2) install approximately 580 feet of new penstock, (3) modify the alignment of the transmission lines, (4) construct a parking lot at the proposed powerhouse; and (5) increase project generation capacity. The project is located on South Boulder Creek, near the city of Boulder, in Boulder County, Colorado. The project occupies Federal lands managed by the U.S. Forest Service, Roosevelt National Forest, and the Bureau of Land Management.

In the EA, Commission staff has analyzed the probable environmental

effects of the proposed amendment and have concluded that approval of the proposal, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is attached to a Commission order titled ''Order Amending License,'' which was issued October 1, 2004, and is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''elibrary'' link. Enter the docket number (prefaced by P-) and excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2585 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF04–16–000]

Empire State Pipeline; Notice of Environmental Review and Scoping for the Empire Connector Project and Request for Comments on Environmental Issues

October 4, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Empire State Pipeline's (Empire) proposed Empire Connector Project (project) in New York. The proposed facilities would consist of about 80 miles of 24-inch-diameter pipeline extending from Empire's existing pipeline in Victor, New York, to an interconnection with the Millennium Pipeline near Corning, New York; and about 22,000 horsepower (hp) of compression at a new compressor station on Empire's exiting pipeline in Oakfield, New York. The Commission will use this EA in its decision-making process to determine whether or not the project is in the public convenience and necessity.

The project is currently in the preliminary design stage. At this time no formal application has been filed with the FERC. For this project, the FERC staff is initiating its National Environmental Policy Act (NEPA) review prior to receiving the application. This will allow interested stakeholders to be involved early in project planning and to identify and resolve issues before an application is filed with the FERC. A docket number (PF04–16–000) has been established to place information filed by Empire and related documents issued by the Commission, into the public record.[1] Once a formal application is filed with the FERC, a new docket number will be established.

This notice is being sent to landowners along the various pipeline routes under consideration; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; and local libraries and newspapers.

With this notice, we[2] are asking these and other Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies which would like to request cooperating status should follow the instructions for filing comments described in appendix 2 of this notice. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

Some affected landowners may be contacted by a project representative about the acquisition of an easement to construct, operate, and maintain the proposed pipeline. If so, the company should seek to negotiate a mutually acceptable agreement. In the event that the project is certificated by the Commission, that approval conveys the right of eminent domain for securing easements for the pipeline. Therefore, if easement negotiations fail to produce an agreement, the company could initiate condemnation proceedings in accordance with state law.

Summary of the Proposed Project

Empire proposes to construct and operate about 80 miles of 24-inch-diameter natural gas pipeline and related facilities to deliver up to 250,000 dekatherms per day (Dth/d) of natural gas from TransCanada Pipelines, Ltd. to the Millennium Pipeline. The pipeline would be constructed in Ontario, Yates, Schuyler, and Chemung Counties, New York. Empire would construct the new 22,000 hp compressor station on its existing pipeline in Genesee County, New York.

At this time, KeySpan Gas East Corporation (KeySpan) has executed a precedent agreement for 150,000 Dth/d of the proposed transportation capacity on Empire's system. KeySpan has requested that the proposed facilities be available to provide the requested service by November 1, 2006. Therefore, Empire plans to file its certificate application in March 2005 and states that it would need to receive authority for the project by January 2006 in order to meet the requested in-service date.

A map depicting the preliminary pipeline route is provided in appendix 1.[3]

Land Requirements

Construction of the proposed facilities would require a total of about 900 acres of land. Typically, pipeline construction would occur within a nominal 75-foot-wide right-of-way. This width would be reduced in forested areas to 65 feet and would be increased up to 100 feet in agricultural areas where segregated topsoil would be stored and in areas with rugged terrain which would require additional right-of-way width for tiered construction or for extra workspace for spoil storage or safety. The pipeline construction right-of-way would require about 815 acres of land plus about 5 acres of land for additional temporary workspaces at road, railroad, waterbody and wetland crossings for staging the crossing of these features. About 20 acres would be required for construction of the compressor station and other aboveground facilities. Empire anticipates needing to use about 15 miles of access roads during construction, affecting about 30 acres of land. Most of these roads would be existing roads, but they may be widened and/or lengthened and some may be new roads. Also, Empire would need about 30 acres for use as contractor or pipe yards.

[1] To view information in the docket, follow the instructions for using the eLibrary link at the end of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Internet Web site *(http://www.ferc.gov)* Copies are available on the Commission's Internet Web site *(http://www.ferc.gov)* at the ''eLibrary'' link or from the Commission's Public Reference and Files Maintenance Branch at (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice.

Following construction, about 500 acres would be maintained for operation of the new facilities. About 480 acres would be required along the permanent, 50-foot-wide pipeline right-of-way. About 10 acres would be permanently required for the new compressor station and other aboveground facility sites. Empire anticipates needing to use about 5 miles of the access roads used during construction as permanent access road affecting about 10 acres. The remaining 400 acres of land would be restored and allowed to revert to its former use.

The EA Process

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address issues and concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues and reasonable alternatives. By this notice, we are requesting agency and public comments on the scope of the issues to be analyzed and presented in the EA. All scoping comments received will be considered during the preparation of the EA. To ensure your comments are considered, please carefully follow the instructions in the public participation section of this notice.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Land use.
- Cultural resources.
- Air quality and noise.
- Public safety.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission(s official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 5.

Currently Identified Environmental Issues

We have identified several issues that we think deserve attention based on a preliminary review of the planned facilities and the environmental resources present in the project area. This preliminary list of issues may be changed based information obtained during the public participation period and on our continuing analysis:

- Geology and Soils.
  - — Assessment of construction and restoration on agricultural lands and areas with a high water table.
  - — Assessment of impacts related to blasting.
- Water Resources.
  - — Impact on water quality and aquatic species crossed by pipeline facilities.
  - — Impacts on water wells and groundwater.
  - — Impacts on wetlands.
- Fish, Wildlife, and Vegetation.
  - — Effects on wildlife and fisheries.
  - — Potential effects on essential fish habitat.
- Endangered and Threatened Species.
  - — Potential effects on federally-listed species.
- Cultural Resources.
  - — Assessment of cultural resources studies.
  - — Native American and tribal concerns.
- Land Use, Recreation and Special Interest Areas, and Visual Resources.
  - — Effects of construction and operation on existing land uses.
  - — Effects of construction on residential properties.
  - — Permanent land use alteration associated with site development.
  - — Visual impacts associated with the new compressor station and other above ground facilities.
- Air Quality and Noise.
  - — Effects on air quality and the noise environment from construction and operation of the proposed facilities.
- Reliability and Safety.
  - — Safety and security of the compressor station and pipeline.

Our evaluation will also include possible alternatives to the proposed project or portions of the project, and we will make recommendations on how to lessen or avoid impacts on the various resource areas of concern.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. Empire has established a preliminary pipeline route for the project; however, if minor reroutes or variations are required to avoid or minimize impacts to certain features on your property, this is your opportunity to assist us and Empire in identifying your specific areas of concern. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of your comments for the attention of Gas Branch 2; and
- Reference Docket No. PF04–16–000 on the original and both copies.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Mailing List Retention Form included in Appendix 3.

The environmental staff of the FERC will conduct a site visit of the proposed facility locations. Anyone interested in participating in the field trip may attend, but they must provide their own transportation. We will meet at the following locations at the indicated dates and times:

Tuesday, October 19, 2004

8 a.m., Corning Museum of Glass, One Museum Way, Corning, New York.

Wednesday, October 20, 2004

8 a.m., Dresden Post Office parking lot, 60 Main St., Dresden, NY.

Please contact Empire's representative Vince Dick at (585) 321–4207 for directions to the locations of the beginning of the site visit.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208 FERC (3372) or on the FERC Internet Web site *(http://www.ferc.gov)*. Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' (*i.e.*, PF04–16–000), and follow the instructions. Searches may also be done using the phrase ''Empire'' in the ''Text Search'' field. For assistance with access to eLibrary, the helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the Commission now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.*

Magalie R. Salas,

Secretary.

[FR Doc. E4–2586 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Participation in Meeting of California Independent System Operator Corporation

October 4, 2004.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may participate in the October 7, 2004 stakeholder meeting of the California Independent System Operator Corporation (CAISO) to discuss current proposals for the market power mitigation under the Market Design and Technology Upgrade Program in light of the California Public Utilities Commission's Draft Order on Resource Adequacy.

The discussion may address matters at issue in the following proceeding:

Docket Nos. ER02–1656–000 and ER02–1656–019, *California Independent System Operator Corporation.*

The meeting will take place on October 7, 2004 and is expected to begin at approximately 10 a.m. (PDT). The meeting will take place at the CAISO's facilities in Folsom, CA. The meeting is open to the public.

For more information, contact Olga Kolotushkina, Office of General Counsel, Federal Energy Regulatory Commission at (202) 502–6024 or *olga.kolotushkina@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2584 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–2234–010, ER03–139–006, ER03–791–003, ER04–111–002, ER04–785–001]

California Power Exchange Corporation; Notice of Alternative Dispute Resolution Conference

October 5, 2004.

On August 20, 2004, in the ''Order Providing Additional Time to Conduct Settlement Discussions,'' *California Power Exchange Corp.,* 108 FERC ¶ 61,199 (2004), the Commission granted the parties' request for additional time to conduct settlement discussions. The Commission also noted that if the parties wish to pursue alternative dispute resolution services, they could contact its Dispute Resolution Service.

Subsequent to the submission of the first status reports, the California Power Exchange Corporation contacted the Commission's Dispute Resolution Service to see if a process could be implemented to assist the parties in their negotiations.

On October 8, 2004, the Director of the Commission's Dispute Resolution Service will hold a settlement conference in the above-captioned docket. The settlement conference will begin at 9:30 a.m. (EST) in Room 3M–3, 888 1st St. NE., Washington, DC 20426. To insure that the room is adequately sized, all parties that plan to attend the settlement conference are requested to contact the Director of the Commission's Dispute Resolution Service before noon on Thursday, October 7, 2004. If additional room is needed, the session will be held in Hearing Room 1 at the same location.

All parties in the above-referenced dockets are requested to attend the settlement conference. Any questions regarding this conference, please call Richard Miles, the Director of the Dispute Resolution Service at (202) 502–8702 or *richard.miles@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E4–2582 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at Miso Stakeholder Meeting

October 4, 2004.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend a meeting of the Midwest Independent Transmission System Operator, Inc. (MISO) stakeholders noted below, where the MISO stakeholders are expected to discuss the implementation of the Commission's recent Grandfathered Agreements Order, 108 FERC ¶ 61,236 (2004). The staff's attendance is part of the Commission's ongoing outreach efforts.

MISO Stakeholder Meeting—
October 6, 2004, 9 a.m.–2 p.m. (e.s.t.)
Lakeside Conference Center (directly across from MISO's headquarters), 630 West Carmel Drive, Carmel, IN 46032.

The discussions may address matters at issue in the following proceedings:

Docket No. ER04–691 and EL04–104, Midwest Independent Transmission System Operator, Inc., *et al.*
Docket No. EL02–65–000, *et al.*, Alliance Companies, *et al.*
Docket No. RT01–87–000, *et al.*, Midwest Independent Transmission System Operator, Inc.
Docket No. ER03–323, *et al.*, Midwest Independent Transmission System Operator, Inc.
Docket No. ER03–1118, Midwest Independent Transmission System Operator, Inc.
Docket No. ER04–375, Midwest Independent Transmission System Operator, Inc., *et al.*
Docket Nos. EL04–43 and EL04–46, Tenaska Power Services Co. and Cargill Power Markets, LLC *v.* Midwest Independent Transmission System Operator, Inc.

The meeting is open to the public.

For more information, contact Patrick Clarey, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov*, or Christopher Miller, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission at (317) 249–5936 or *christopher.miller@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2583 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD04–13–000]

Assessing the State of Wind Energy in Wholesale Electricity Markets; Notice of Technical Conference

October 4, 2004.

Take notice that the Federal Energy Regulatory Commission will host a technical conference on Wednesday, December 1, 2004 to assess the state of wind energy in wholesale electricity markets. The workshop will be held at the Adams Mark Denver Hotel, 1550 Court Place, Denver, Colorado 80202. The workshop is scheduled to begin at 9 a.m. and end at approximately 5 p.m. (Mountain Standard Time). The Commissioners will attend and participate.

The goal of the technical conference is to explore possible policy changes that would better accommodate the participation of wind energy in wholesale markets. Topics may include:

- The interest in and need for reform to the transmission service options under open-access transmission tariffs to better accommodate intermittent resources like wind;
- Whether the current methodology for determining imbalance charges unduly penalizes intermittent resources;
- The role of regional transmission planning processes;
- The inclusion of wind energy in State resource adequacy plans and installed capacity markets; and
- Experiences of transmission providers that currently transmit wind energy.

An agenda will be made available at a later time.

The conference is open for the public to attend, and registration is not required; however, in-person attendees are asked to register for the conference on-line by close of business on Monday, November 29, 2004 at *http://www.ferc.gov/whats-new/registration/wind-1201-form.asp.*

Transcripts of the conference will be immediately available from Ace Reporting Company (202) 347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening of the conference via the Internet or a Phone Bridge Connection for a fee. Interested persons should make arrangements as soon as possible by visiting the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and clicking on ''FERC.'' If you have any questions contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100).

For more information about the conference, please contact Sarah McKinley at (202) 502–8004, *sarah.mckinley@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E4–2593 Filed 10–12–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Post-2005 Resource Pool, Pick-Sloan Missouri Basin Program—Eastern Division

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of final power allocations.

SUMMARY: The Western Area Power Administration's (Western) Upper Great Plains Customer Service Region, a Federal power marketing agency of the Department of Energy, announces the Post-2005 Resource Pool Power Allocations (Power Allocations) to fulfill the requirements of the Energy Planning and Management Program (Program). The Power Allocations come from a Federal power resource pool of the long-term marketable resource of the Pick-Sloan Missouri Basin Program—Eastern Division (P–SMBP—ED) that will become available January 1, 2006. This notice also includes Western's responses to public comments on proposed allocations published March 29, 2004.

Final Power Allocations are published to show Western's decisions prior to beginning the contractual phase of the process. Firm electric service contracts, between Western and the allottees in this notice, will provide for allocations of power from the January 2006 billing period through the December 2020 billing period.

DATES: The Power Allocations are effective November 12, 2004.

ADDRESSES: Information about these Power Allocations, including comments, letters, and other supporting documents made or kept by Western in developing the final allocations, are available for public inspection and copying at the Upper Great Plains Customer Service Region, Western Area Power Administration, located at 2900 4th Avenue North, P.O. Box 35800, Billings, MT 59107–5800. Public comments are available online at *http://www.wapa.gov/ugp/contracts/post2005/comments.htm.*

FOR FURTHER INFORMATION CONTACT: Nancy Senitte, Public Utilities Specialist, Upper Great Plains Customer Service Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59107–1266, telephone (406) 247–7429, e-mail *senitte@wapa.gov.*

SUPPLEMENTARY INFORMATION: Western published the final Post-2005 Resource Pool Allocation Procedures (Procedures) in the **Federal Register** (68 FR 67414, December 2, 2003), to implement Subpart C–Power Marketing Initiative of the Program's Final Rule (10 CFR 905), published in the **Federal Register** (60 FR 54151, October 20, 1995). The Program, developed in part to implement section 114 of the Energy Policy Act of 1992, became effective on November 20, 1995. The goal of the Program is to require planning for efficient electric energy use by Western's long-term firm power customers and to extend Western's firm power resource commitments. One aspect of the Program is to establish project-specific power resource pools and allocate power from these pools to new preference customers.

Western published its proposed allocations in the **Federal Register** (69 FR 16247, March 29, 2004), and initiated a public comment period. Public information and comment forums on the proposed allocations were held on April 27 and 28, 2004. The public comment period ended on June 28, 2004.

The Procedures, in conjunction with the Post-1985 Marketing Plan (45 FR 71860, October 30, 1980), establish the framework for allocating power from the P–SMBP—ED.

Response to Comments on Proposed Post-2005 Resource Pool Allocations

The comments and responses regarding the allocations of power, paraphrased for brevity when not

affecting the meaning of the statement(s), are discussed below.

Comment: Western received a letter supporting the allocation plan for the Post-2005 Resource Pool. Western also received a letter expressing frustration with the process and allocations.

Response: Western exercised its discretion under Reclamation Law in shaping the final Procedures in response to public input provided during the public process in allocating this resource to eligible applicants. Western followed these Procedures in determining the Power Allocations.

Comment: Western received a comment from a current customer concerned with the Post-2005 Resource Pool process overburdening a specific class of existing customers by using a reallocation methodology which does not impact all existing customers equally. The commenter believes this results in an increase to retail power rates for the benefit of new customers under the Post-2005 Resource Pool. The commenter suggests that all customers, regardless of class, should bear the burden of the proposed allocation.

Response: Western agrees that all customers should be impacted equally and the Post-2005 Resource Pool process accomplishes that. Customers who hold allocations from a Western resource pool are impacted the same; as each customer's current allocation is reduced by the same percentage. Western's customers who received allocations from the Post-2000 Resource Pool will see a reduction in their allocations at the same percentage as those who hold allocations from previous marketing initiatives. This process avoids any discrimination among customers.

Comment: Western received a letter from an entity expressing hope that a power allocation to an entity from the Post-2005 Resource Pool would not automatically disqualify other State entities or university units from consideration for power allocations in future.

Response: The determination of future resource pool criteria is outside of this public process.

Final Allocations of Power

The Power Allocations for new customers were calculated using the Procedures. As defined in the Post-1985 Marketing Plan criteria under the Procedures, the summer allocations are 24.84413 percent of total summer load; the winter allocations are 35.98853 percent of total winter load. The final Power Allocations for new eligible customers and the loads these allocations are based upon are as follows:

New customers	2002 summer season load kilowatts	2002 winter season load kilowatts	Post-2005 resource pool power allocations	
			Summer kilowatts	Winter kilowatts
City of Auburn, IA	515	409	128	147
City of Pocahontas, IA	4,236	2,980	1,052	1,072
Montana State University—Bozeman, MT	8,506	8,536	2,113	3,072

The final Power Allocations for new customers listed in the table above are based on the P–SMBP—ED marketable resource available at this time. Firm Electric Service Contracts will be offered to the customers listed in the table above. If the P–SMBP—ED marketable resource is adjusted in the future, Power Allocations may be adjusted accordingly.

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. This action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: September 27, 2004.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 04–22914 Filed 10–12–04; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2004–0077; FRL–7827–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule, EPA ICR No. 1365.07, OMB No. 2070–0091

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule, EPA ICR No. 1365.07, OMB No. 2070–0091. This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2004. Under OMB regulations, the Agency may continue to conduct or

sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before November 12, 2004.

ADDRESSES: Submit your comments, referencing docket ID Number OPPT–2004–0077, to (1) EPA online using EDOCKET (our preferred method), by email to *oppt.ncic@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Pollution Prevention and Toxics (OPPT), Mailcode: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 19, 2004, EPA sought comments on this renewal ICR (69 FR 13032). EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period.

EPA has established a public docket for this ICR under Docket ID No. OPPT–2004–0077, which is available for public viewing at the OPPT Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Pollution Prevention and Toxics Docket is 202–566–0280. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule.

Abstract: The Asbestos Hazard Emergency Response Act (AHERA) requires local education agencies (LEAs) to conduct inspections, develop management plans, and design or conduct response actions with respect to the presence of asbestos-containing materials in school buildings. AHERA also requires states to develop model accreditation plans for persons who perform asbestos inspections, develop management control plans, and design or conduct response actions. This information collection addresses the burden associated with recordkeeping requirements imposed on LEAs by the asbestos in schools rule, and reporting and recordkeeping requirements imposed on states and training providers related to the model accreditation plan rule.

Responses to the collection of information are mandatory (see 40 CFR part 763, subpart E). Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be 20.5 hours per response for schools, 140 hours per response for states, and 5.5 hours per response for training providers. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Local education agencies (*e.g.*, elementary or secondary school districts); asbestos training providers to schools and educational systems; state education departments or commissions; and public health programs.

Frequency of Collection: On occasion.

Estimated No. of Respondents: 121,321.

Estimated Total Annual Burden on Respondents: 2,485,440 hours.

Estimated Total Annual Costs: $66,571,300.

Changes in Burden Estimates: This request reflects an increase in the total estimated burden of 273,289 hours (from 2,212,151 hours to 2,485,440 hours) from that currently in the OMB inventory. This increase is attributable to a change in the method of calculating total annual burden for LEAs. In previous ICRs, total burden was estimated for the remainder of the 30-year implementation period, then averaged over each of the remaining years to estimate annual burden. Because burden is expected to decline over time as schools abate friable ACM, this method produced lower annual burden estimates for the earlier years in the period because total burden was averaged over a larger number of years. For this ICR renewal, the average estimated number of schools of each type in the three years of the renewal period (years 17–19 of the implementation period) is used with the unit burden estimates to derive an

annual burden estimate. This is a more transparent method since it relies on simple multiplication of the estimated number of respondents by the unit burden associated with each.

Dated: October 4, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–22959 Filed 10–12–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2004–0093; FRL–7827–1]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; Clean Air Act Tribal Authority (Renewal), ICR Number 1676.04, OMB Number 2060–0306

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Comments must be submitted on or before November 12, 2004.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2004–0093, to (1) EPA online using EDOCKET (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Darrel Harmon, Immediate Office, Office of Air and Radiation, Mail Code 6101A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7416; fax number (202) 501–0394, E-mail address: *harmon.darrel@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 13, 2004 (69 FR 42052), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number OAR–2004–0093, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center Docket is: (202) 566–1741. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Clean Air Act Tribal Authority (Renewal).

Abstract: This Information Collection Request (ICR) seeks authorization for Tribes to demonstrate their eligibility to be treated in the same manner as states under the Clean Air Act (CAA) and to submit applications to implement a CAA program. This ICR extends the collection period of information for determining eligibility, which expires October 31, 2004. The ICR also is revising the estimates of burden costs for Tribes in completing a CAA application.

The program regulation provides for Indian Tribes, if they so choose, to assume responsibility for the development and implementation of CAA programs. The regulation, Indian Tribes: Air Quality Planning and Management (Tribal Authority Rule [TAR] 40 CFR parts 9, 35, 49, 50 and 81), sets forth how Tribes may seek authority to implement their own air quality planning and management programs. The rule establishes: (1) Which CAA provisions Indian Tribes may seek authority to implement, (2) what requirements the Tribes must meet when seeking such authorization, and (3) what Federal financial assistance may be available to help Tribes establish and manage their air quality programs. The TAR provides Tribes the authority to administer air quality programs over all air resources, including non-Indian owned fee lands, within the exterior boundaries of a reservation and other areas over which the tribe can demonstrate jurisdiction. An Indian Tribe that takes responsibility for a CAA program would essentially be treated in the same way as a State would be treated for that program. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 40 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State, Local, or Tribal Governments.

Estimated Number of Respondents: 27.

Frequency of Response: One time application.

Estimated Total Annual Hour Burden: 360 hours.

Estimated Total Annual Costs: $26,438, which includes $0 annualized capital/startup costs, $0 annual O&M costs, and $26,438 annual labor costs.

Changes in Estimates: There is a decrease of 67 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is based on estimates of fewer responses.

Dated: October 4, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–22960 Filed 10–12–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7827–4]

State Innovation Grant Program, Preliminary Notice and Request for Input on the Development of a Solicitation for Proposals for 2004/2005 Awards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency, Office of Policy, Economics and Innovation (OPEI) is giving a preliminary notice of its intention to solicit proposals for a 2004/2005 grant program to support innovation by state environmental regulatory agencies—the ''State Innovation Grant Program.'' The Agency is also seeking input from State Environmental Regulatory Agencies on the topic areas for the solicitation. In addition, EPA is asking each State Environmental Regulatory Agency to designate a point of contact at the management level (in addition to the Commissioner or Cabinet Secretary level) who should receive further communication about the upcoming solicitation. EPA anticipates publication of a **Federal Register** notice to announce the availability of the next solicitation within 75 days.

DATES: State Environmental Regulatory Agencies will have 30 days from the date of this pre-announcement notice in the **Federal Register** publication until November 12, 2004, to respond with: (1) Suggestions for specific topics that should be included under the general subject area of ''Innovation in Environmental Permitting Programs'' (*e.g.*, topics with 1–2 paragraphs description) for the next solicitation; and (2) point of contact information (name, title, mailing address, telephone and fax numbers, and e-mail address) for the person within the State Environmental Regulatory Agency (in addition to Commissioner or Cabinet Secretaries) who should receive future notices about the State Innovation Grants. We will automatically transmit notice of availability of the solicitation to people in State agencies identified for previous solicitations.

ADDRESSES: Information should be sent to: State Innovation Grant Program; Office of Policy, Economics and Innovation; U.S. Environmental Protection Agency (1807T); 1200 Pennsylvania Ave., NW., Washington, DC 20460. Responses may also be sent by fax to (202–566–2220), addressed to the ''State Innovation Grant Program,'' or by e-mail to: *Innovation_State_Grants@EPA.gov.* We encourage e-mail responses. If you have questions about responding to this notice, please contact EPA at this e-mail address or fax number, or you may call Sherri Walker at 202–566–2186. For point of contact information, please provide: name, title, department and agency, street or Post Office address, city, State, zip code, telephone, fax, and e-mail address. EPA will acknowledge all responses it receives to this notice.

SUPPLEMENTARY INFORMATION:

Background: In April 2002, EPA issued its plan for future innovation efforts, published as *Innovating for Better Environmental Results: A Strategy to Guide the Next Generation of Innovation at EPA* (EPA 100–R–02–002; *http://www.epa.gov/innovation/strategy/*). The Agency's *Innovation Strategy* presents a framework for environmental innovation consisting of four major elements:

(1) Strengthen EPA's innovation partnerships with States;

(2) Focus on priority environmental issues;

(3) Diversify environmental protection tools and approaches;

(4) Foster a more ''innovation-friendly'' organizational culture and systems. This assistance program strengthens EPA's partnership with the States by supporting State innovation compatible with the *Innovation Strategy.* EPA would like to help States build on previous experience and undertake strategic innovation projects that promote larger-scale models for ''next generation'' environmental protection and promise better environmental results. EPA is interested in funding projects that go beyond a single facility experiment and obtain better results from a program, process, or sector-wide innovation. EPA is particularly interested in innovation that promotes integrated (cross-media) environmental management and is transferable to other States.

In 2002, EPA initiated the State Innovation Grants Program with a competition that asked for State project proposals that would create innovation in environmental permitting programs related to one of the Innovation Strategy's four priority environmental issues: reducing greenhouse gases, reducing smog, improving water quality, and ensuring the long-term integrity of the nations's water infrastructure. In addition, the solicitation encouraged projects that test incentives that motivate ''beyond-compliance'' environmental performance, or move whole sectors toward improved environmental performance. The 2002 competition resulted in six state innovation project awards. In October 2003, the EPA National Center for Environmental Innovation (NCEI) opened the 2003/2004 competition for projects to be funded in 2004. On April 16, 2004, EPA announced the ten projects that have been selected from this new competition. EPA is currently completing awards to States selected in that competition. For more information on last year's solicitation, the proposals received, and the 2003–04 award decisions, please see the Web site at: *http://www.epa.gov/innovation/stategrants.*

Request for Input on Solicitation Topics and Priorities: Like the prior two solicitations, the 2004/2005 State Innovation Grant Program competition will seek to strengthen EPA's innovation partnership with States by providing a source of funding to facilitate State efforts to test new models for ''next generation'' environmental protection that will provide better environmental results, consistent with the goals of EPA's *Innovation Strategy.*

EPA proposes to retain ''innovation in permitting'' as the general subject area of the upcoming solicitation as well as

the two specific topics under that theme from last year: (1) Support for development of state Environmental Results Programs (ERP); and (2) projects which explore the relationship between Environmental Management Systems (EMS) and permitting (see *EPA's Strategy for Determining the Role of EMS in Regulatory Programs* at *http://www.epa.gov/ems* or *http://www.epa.gov/ems/policy/EMS_and_the_Reg_Structure_41204F.pdf).* EPA believes the general subject of ''innovation in permitting'' with specific topics of focus makes sense: the prior two solicitations have evidenced a great deal of innovation taking place in state permitting programs; and focusing on a small number of topics within this subject area effectively concentrates the limited resources available for greater strategic impact. EPA proposes to add a third specific topic this year to enhance the focus of eligible projects under the permitting subject area: development and implementation of incentives for environmental performance that goes beyond compliance as part of State leadership and recognition programs. These incentives and their implementation should be transferable to other State performance-based programs and/or the National Environmental Performance Track Program. In addition, EPA may contemplate a very small number of projects otherwise related to the theme of permitting. EPA is asking for State Environmental Regulatory Agencies and other interested parties to provide brief (about 1 paragraph) suggestions about additional innovation topics within the subject of innovation in permitting for possible inclusion in the upcoming solicitation. EPA will continue to encourage project proposals that address the four priority environmental areas identified above (*i.e.*, reducing greenhouse gases; reducing smog; restoring and maintaining water quality; reducing the cost of water and wastewater infrastructure) and use tools (*i.e.*, incentives, information, performance measurement, etc.) highlighted in the Innovation Strategy. State Environmental Regulatory Agency respondents should send their suggestions to EPA by mail, e-mail, or fax as described in the **ADDRESSES** section above.

Note: These grants will not be applied to the development or demonstration of new environmental technologies, nor will NCEI be looking to fund projects that have as a primary focus the upgrading of information technology systems. Projects would be much less likely to be funded through this State Innovation Grant if agency resources are already available through another agency program.

Competition Limited to the State Environmental Regulatory Agency: The competition will be limited to the principal Environmental Regulatory Agency within each State, although these agencies are encouraged to partner with other agencies within the State that have environmental mandates (*e.g.*, natural resources management, transportation, public health, energy). EPA will accept only one proposal from an individual State and it must be submitted by the principal Environmental Regulatory Agency from that State. States are also encouraged to partner with neighboring States to address cross-boundary issues, to create networks for peer-mentoring, and States are particularly encouraged to consider partnering with Tribal governments in developing projects and proposals. A multi-state or State-Tribal proposal will be accepted in addition to an individual State proposal, but a State may appear in no more than one multi-State or State-Tribal proposal in addition to its individual State proposal.

Request for State to Designate a Primary Point of Contact: EPA asks that each State Environmental Regulatory Agency designate as a primary point-of-contact, a manager who we will add to the EPA notification list for further announcements about the State Innovation Grant Program. We are asking that this name be submitted with the approval of the highest levels of management within an Agency (Secretary, Commissioner, or their deputies) within 30 days after publication of this notice in the FR November 12, 2004. Please submit this information to EPA as described in the **ADDRESSES** section above.

Open Dialogue: Between now and the completion and release of the solicitation, States are encouraged to discuss potential projects with their EPA Regional contact to ascertain whether the scope of a potential project is suitable for funding under this program. Feel free to contact the appropriate Regional contact and the EPA HQ National Center for Environmental Innovation:

Regional Contacts

George Frantz, U.S. EPA Region I, 1 Congress Street, Suite 1100, Boston, MA 02114–2023, (617) 918–1883, *frantz.george@epa.gov,* States: ME, NH, VT, MA, CT, RI.

Jennifer Thatcher, U.S. EPA Region 2, 290 Broadway, 26th Floor, New York, NY 10007–1866, (212) 637–3593, *thatcher.jennifer@epa.gov,* States & Territories: NY, NJ, PR, VI.

Marie Holman, U.S. EPA Region 3, 1650 Arch Street (3EA40), Philadelphia, PA 19103, (215) 814–5463, *holman.marie@epa.gov,* States: DE, DC, MD, PA, VA, WV.

Melissa Heath, U.S. EPA Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, (404) 562–8381, *heath.melissa@epa.gov,* States: AL, FL, GA, KY, MS, NC, SC, TN.

Marilou Martin, U.S. EPA Region 5, B–19J, 77 West Jackson Blvd., Chicago, IL 60604–3507, (312) 353–9660, *martin.marilou@epa.gov,* States: MN, WI, MI, IL, IN, OH.

David Bond, U.S. EPA Region 6, Fountain Place, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–6431, *bond.david@epa.gov,* States: AR, LA, NM, OK, TX.

David Erickson, U.S. EPA Region 7, 901 N. 5th Street, Kansas City, KS 66101, (913) 551–7162, *erickson.david@epa.gov,* States: KS, MO, NE, IA.

Whitney Trulove-Cranor, U.S. EPA Region 8 (8P–SA), 999 18th Street, Suite 300, Denver, CO 80202–2466, (303) 312–6099, *trulove-cranor.whitney@epa.gov,* States: CO, MT, ND, SD, UT, WY.

Julie Anderson, U.S. EPA Region 9, 75 Hawthorne Street (SPE–1), San Francisco, CA 94105, (415) 947–4260, *anderson.julie@epa.gov,* States & Territories: CA, NV, AZ, HI, AS, GU.

Bill Glasser, U.S. EPA Region 10, 1200 Sixth Avenue (ENF–T), Seattle, WA 98101, 206–553–7215, *glasser.william@epa.gov,* States: AK, ID, OR, WA.

Headquarters Office

State Innovation Grants Program, National Center for Environmental Innovation, Office of the Administrator, U.S. EPA (MC 1807T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, (202) 566–2186, (202) 566–2220 FAX, *Innovation_State_Grants@epa.gov.*

For courier delivery only: Sherri Walker, U.S. EPA, EPA West Building, room 4214D, 1301 Constitution Ave., NW., Washington, DC 20005.

Opportunity for Focused Pre-Competition Workshop: In addition, prior to this year's solicitation, we are planning to host a series of five ''cluster'' phone calls with sets of two EPA Regions and all of their States. These conference calls will enable us to offer a two-hour streamlined proposal development workshop to all States prior to our solicitation, and will allow us to answer any questions that the States have prior to the competition, in

keeping with Federal requirements that we afford assistance fairly in a competition process. Specific conference call logistics and grant resource information will be provided to each Region and the States as well as being posted on our Web site at *http://www.epa.gov/innovation/stategrants.* We will probably conduct one conference call (workshop) per week, for five weeks in October, through early November 2004. Workshop summaries, and all other resource materials will be posted on the Web site at *http://www.epa.gov/innovation/stategrants.* Through this effort, we are hoping to encourage individual States (and/or State-led teams) to submit well-developed pre-proposals that effectively describe in particular how their project will achieve measurable environmental results.

Dated: October 6, 2004.

Elizabeth Shaw,

Director, Office of Environmental Policy Innovation.

[FR Doc. 04–22958 Filed 10–12–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0339; FRL–7683–4]

The Association of American Pesticide Control Officials/State FIFRA Issues Research and Evaluation Group; Working Committee on Pesticide Operations & Management; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations & Management (PO&M) will hold a 2–day meeting, beginning on November 8, 2004, and ending November 9, 2004. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, November 8, 2004, from 8:30 a.m. to 5 p.m., and on Tuesday, November 9, 2004, from 8:30 a.m. to noon.

ADDRESSES: The meeting will be held at the Hyatt Regency, Crystal City Hotel, 2799 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Georgia A. McDuffie, Field and External Affairs Division, (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: *mcduffie.georgia@epa.gov* or

Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax number: (802) 472–6957; e-mail address: *aapco@plainfield.bypass.com*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in SFIREG information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process. All interested parties are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0339. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Tentative Agenda

1. Atrazine relabeling.

2. E-labeling.

3. Mold issues and product registration.

4. Automatic mister applications of mosquito adulticides.

5. Phosphide fumigants, proposed Q & A documents.

6. Reconciling label directions and waste requirements.

7. Genetically Modified Organism (GMO) issues, plant-incorporated pesticides and genetically altered resistance.

8. Liability waivers.

9. Performance measures.

10. Risk mitigation label statements.

11. Endangered species program implementation status.

12. Container/containment rules and implementation issues.

13. Office of Pesticide Programs, and Office of Enforcement and Compliance Assurance updates.

14. Issue papers and wrap up.

List of Subjects

Environmental protection.

Dated: October 1, 2004.

William R. Diamond,

Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 04–22877 Filed 10–12–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7826–9]

Meeting of the Ozone Transport Commission

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing the 2004 Fall Meeting of the Ozone Transport Commission (OTC). This meeting will explore options available for reducing ground-level ozone precursors in a multi-pollutant context.

DATES: The meeting will be held on November 9, 2004 starting at 1 p.m. (EST), and November 10, 2004 starting at 9 a.m. (EST).

ADDRESSES: Historic Inns of Annapolis, 58 State Circle, Annapolis, Maryland 21401; (410) 263–2641.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, Associate Director, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; (215) 814–2100. *For Documents and Press Inquiries Contact:* Ozone Transport Commission, 444 North Capitol Street NW., Suite 638, Washington, DC 20001; (202) 508–3840; e-mail: *ozone@otcair.org;* Web site: *http://www.otcair.org.*

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 provisions for the ''Control of Interstate Ozone Air Pollution.'' Section 184(a) establishes an ''Ozone Transport Region'' (OTR) comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Northern Virginia and the District of Columbia. The purpose of the Ozone Transport Commission is to deal with ground level ozone formation, transport, and control within the OTR. The purpose of this notice is to announce that the OTC will meet on November 9–10, 2004, at the address noted earlier in this notice. This meeting will explore options available for reducing ground-level ozone precursors in a multi-pollutant context. Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meeting of the Ozone Transport Commission is not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits.

Type of Meeting: Open.

Agenda: Copies of the final agenda are available from the OTC office (202) 508–3840, by e-mail: *ozone@otcair.org* or via the OTC Web site at *http://www.otcair.org.*

Dated: October 4, 2004.

Richard J. Kampf,

Acting Regional Administrator.

[FR Doc. 04–22961 Filed 10–12–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7827–3]

Science Advisory Board (SAB) Staff Office Notification of Upcoming Meeting of the Regional Vulnerability Assessment Advisory Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA's Science Advisory Board (SAB) Staff Office is announcing a public face-to-face meeting of the SAB Regional Vulnerability Assessment (ReVA) Advisory Panel. The purpose of this meeting is to provide advice to EPA on the ReVA Methods for Multi-Scale Decision-Making.

DATES: The SAB ReVA Advisory Panel will meet starting Tuesday October 26, 2004 at 9 a.m., and adjourn at approximately 4 p.m. (eastern time) Wednesday October 27, 2004.

ADDRESSES: The public meeting of the Panel will be held at the Science Advisory Board Conference Center located at 1025 F Street, NW., Suite 3705, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public meeting may contact Dr. Thomas Armitage, Designated Federal Officer (DFO), U.S. EPA Science Advisory Board by telephone/voice mail at (202) 343–9995, fax at (202) 233–0643, by e-mail at *armitage.thomas@epa.gov,* or by mail at U.S. EPA SAB (1400F), 1200 Pennsylvania Ave., NW., Washington, DC, 20460. General information about the SAB and the meeting location may be found on the SAB Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Summary: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, Notice is hereby given that the Panel will hold a public meeting to provide advice to the EPA on the Agency's Regional Vulnerability Assessment Methods for Multi-Scale Decision-Making. The dates and times for the meeting are provided above.

Background: Background on the meeting described in this notice was provided in a **Federal Register** Notice published on July 30, 2004 (69 FR 45706–45707). The SAB Staff Office has determined that the advisory on the Regional Vulnerability Assessment Methods for Multi-Scale Decision-Making will be conducted by the SAB's Ecological Processes and Effects Committee augmented with experts in decision science and environmental decision-making, landscape ecology, analysis of land use change, ecology and the use of geographic information system technology to analyze environmental stressors and effects, and environmental statistics. A roster of Panel members, their biosketches, and the meeting agenda will be posted on the SAB Web site prior to the meeting.

Availability of Meeting Materials: The meeting agenda and the charge to the SAB panel will be posted on the SAB Web site prior to the meeting. Meeting materials also include: (1) The EPA document, *Regional Vulnerability Assessment for the Mid-Atlantic Region: Evaluation of Integration Methods and Assessments Results;* (2) the EPA document, The U.S. EPA's *Regional Vulnerability Assessment Program—A Research Strategy for 2001–2006;* and (3) four Internet Web sites with versions of the *ReVA Web-based Environmental Decision Toolkit* (EDT). Copies of these materials may be obtained by contacting Dr. Betsy Smith, EPA Office of Research and Development, by telephone: 919–541–0626, or e-mail: *smith.betsy@epa.gov.*

Procedures for Providing Public Comments: It is the policy of the EPA SAB to accept written public comments of any length, and to accommodate oral public comments whenever possible. The SAB Staff Office expects that public statements presented at the ReVA panel meeting will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). Interested parties should contact the DFO in writing (e-mail, fax or mail—see contact information above) by close of business October 21, 2004 in order to be placed on the public speaker list for the meeting. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the participants and public at the meeting. *Written Comments:* Although the SAB Staff Office accepts written comments until the date of the meeting (unless otherwise stated), written comments

should be received in the SAB Staff Office at least seven business days prior to the meeting date so that the comments may be made available to the panel for their consideration. Comments should be supplied to the DFO at the address/contact information noted above in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files in IBM-PC/Windows 98/2000/XP format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Accommodations: Individuals requiring special accommodation to access the public meetings listed above should contact the DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: October 6, 2004.

Vanessa Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 04–22962 Filed 10–12–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0332; FRL–7682–8]

Pesticide Product; Registration Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application to register the pesticide products California Red Scale Technical Pheromone and Red Scale Down containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Denise Greenway, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8263; e-mail address: *greenway.denise@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0332. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. The request should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Did EPA Approve the Application?

The Agency approved the application after considering all required data on risks associated with the proposed use of (3S, 6R)-3-methyl-6-isopropenyl-9-decen-1-yl acetate and (3S, 6S)-3-methyl-6-isopropenyl-9-decen-1-yl acetate, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of (3S, 6R)-3-methyl-6-isopropenyl-9-decen-1-yl acetate and (3S, 6S)-3-methyl-6-isopropenyl-9-decen-1-yl acetate when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

III. Approved Application

1. EPA issued a notice, published in the **Federal Register** of August 11, 2004 (69 FR 48867) (FRL–7365–9), which announced that HBB Partnership, 5151 N. Palm Ave., Ste. 820, Fresno, CA 93704–2221, had submitted an application to register the pesticide product, California Red Scale Technical Pheromone, a manufacturing use

product for the formulation of a mating-disruption pheromone end-use product, (EPA File Symbol 75108–E), containing the active ingredients (3S, 6R)-3-methyl-6-isopropenyl-9-decen-1-yl acetate and (3S, 6S)-3-methyl-6-isopropenyl-9-decen-1-yl acetate at 36% and 22% by weight, respectively. This product was not previously registered.

The application was approved on September 15, 2004, as California Red Scale Technical Pheromone (EPA Registration Number 75108–2) for use in manufacturing or formulating.

2. EPA also issued a notice, published in the **Federal Register** of August 11, 2004 (69 FR 48867), which announced that HBB Partnership had submitted an application to register the pesticide product, Red Scale Down, a mating disruption pheromone end-use product, (EPA File Symbol 75108–R), containing the active ingredients (3S, 6R)-3-methyl-6-isopropenyl-9-decen-1-yl acetate and (3S, 6S)-3-methyl-6-isopropenyl-9-decen-1-yl acetate at 0.041% and 0.025% by weight, respectively. This product was not previously registered.

The application was approved on September 15, 2004, as Red Scale Down (EPA Registration Number 75108–1) for the control of California red scale in citrus.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: September 29, 2004.

Phil Hutton,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 04–22876 Filed 10–12–04; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 04–3175]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 7, 2004, the Commission released a public notice announcing the November 4, 2004 meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

DATES: Thursday, November 4, 2004, 8:30 a.m.

ADDRESSES: Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 5–A420, Washington, DC 20554. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–1466 or *Deborah.Blue@fcc.gov.* The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: October 7, 2004.

The North American Numbering Council (NANC) has scheduled a meeting to be held Thursday, November 4, 2004, from 8:30 a.m. until 12:30 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street, SW., Room TW–C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting.

Proposed Agenda—Thursday, November 4, 2004, 8:30 a.m.*

1. Announcements and recent news.
2. Approval of minutes.

* Meeting of September 14, 2004.

3. Report from NANP B&C Agent.
4. Report of NAPM, LLC.
5. Report of the North American Numbering Plan Administrator (NANPA).
6. Report of National Thousands Block Pooling Administrator.
7. Status of Industry Numbering Committee (INC) activities.
8. Reports from Issues Management Groups (IMGs).
9. Report of Local Number Portability Administration (LNPA) Working Group.
10. Report of Numbering Oversight Working Group (NOWG).
11. Report of Future of Numbering Working Group.
12. Special presentations.
13. Update List of NANC Accomplishments.
14. Summary of action items.
15. Public comments and participation (5 minutes per speaker).
16. Other business.

Adjourn no later than 12:30 p.m.

Next Meeting: Wednesday, January 19, 2005.

Federal Communications Commission.

Sanford S. Williams,

Attorney, Telecommunications Access Policy Division, Wireline Competition Bureau.

[FR Doc. 04–22940 Filed 10–12–04; 8:45 am]

BILLING CODE 6712–01–P

* The Agenda may be modified at the discretion of the NANC Chairman with the approval of the DFO.

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficient Assets To Satisfy All Claims of Financial Institution in Receivership

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) has determined that the proceeds that can be realized from the liquidation of assets of the receivership listed in **SUPPLEMENTARY INFORMATION** are insufficient to wholly satisfy the priority claims of depositors against the receivership estate. Therefore, upon satisfaction of secured claims, depositor claims, and claims which have priority over depositors under applicable law, no amount will remain or will be recovered sufficient to allow a dividend, distribution, or payment to any creditor of lesser priority, including but not limited to claims of general creditors. Any such claims are hereby determined to be worthless.

FOR FURTHER INFORMATION CONTACT: Thomas Bolt, Counsel, Legal Division, FDIC, 550 17th Street, NW., Room H–11052, Washington, DC 20429. Telephone: (202) 736–0168.

SUPPLEMENTARY INFORMATION: Financial Institution in Receivership Determined To Have Insufficient Assets To Satisfy All Claims, FIN 4657, Am Trade International Bank of Georgia, Atlanta, Georgia.

Dated: October 7, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 04–22913 Filed 10–12–04; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, October 12, 2004, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(4), (c)(6), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider matters relating to the Corporation's corporate and liquidation activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–7043.

Dated: October 7, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E4–2577 Filed 10–12–04; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2004–N–13]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2004–05 third quarter review cycle under the Finance Board's community support requirements regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to the Finance Board.

DATES: Bank members selected for the review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board on or before November 26, 2004.

ADDRESSES: Bank members selected for the 2004–05 third quarter review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board either by regular mail at the Federal Housing Finance Board, Office of Supervision, Community Investment and Affordable Housing, 1777 F Street, NW., Washington, DC 20006, or by electronic mail at *FITZGERALDE@FHFB.GOV.*

FOR FURTHER INFORMATION CONTACT: Emma J. Fitzgerald, Program Analyst, Office of Supervision, Community Investment and Affordable Housing, by telephone at 202/408–2874, by electronic mail at *FITZGERALDE@FHFB.GOV,* or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 et seq., and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirements regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR part 944. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. 12 CFR 944.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 944.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 944.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 944.2(a). The Finance Board will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the November 26, 2004 deadline prescribed in this notice. 12 CFR 944.2(b)(1)(ii) and (c). On or before October 29, 2004, each Bank will notify the members in its district that have been selected for the 2004–05 third quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. 12 CFR 944.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site: *WWW.FHFB.GOV.* Upon request, the member's Bank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 2004–05 third quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Collinsville Savings Society	Canton	Connecticut.
The Guilford Savings Bank	Guilford	Connecticut.
Northwest Community Bank	Winsted	Connecticut.
Bar Harbor Bank and Trust	Bar Harbor	Maine.
Calais Federal Savings and Loan Association	Calais	Maine.
Camden National Bank	Camden	Maine.
Damariscotta Bank & Trust Company	Damariscotta	Maine.
Franklin Savings Bank	Farmington	Maine.
Katahdin Trust Company	Patten	Maine.
Banknorth, N.A.	Portland	Maine.
Rockland Savings and Loan Association	Rockland	Maine.
Athol Savings Bank	Athol	Massachusetts.

Capital Crossing Bank	Boston	Massachusetts.
OneUnited Bank	Boston	Massachusetts.
Security Federal Savings Bank	Brockton	Massachusetts.
The Bank of Canton	Canton	Massachusetts.
Clinton Savings Bank	Clinton	Massachusetts.
Danvers Savings Bank	Danvers	Massachusetts.
Lafayette Federal Savings Bank	Fall River	Massachusetts.
Family Federal Savings F.A	Fitchburg	Massachusetts.
Florence Savings Bank	Florence	Massachusetts.
Colonial Co-operative Bank	Gardner	Massachusetts.
Hingham Institution for Savings	Hingham	Massachusetts.
Peoples Savings Bank	Holyoke	Massachusetts.
Roxbury Highland Co-operative Bank	Jamaica Plain	Massachusetts.
Equitable Co-operative Bank	Lynn	Massachusetts.
Mansfield Co-operative Bank	Mansfield	Massachusetts.
Milford Federal Savings and Loan Association	Milford	Massachusetts.
Northampton Cooperative Bank	Northampton	Massachusetts.
Hometown Bank, a Cooperative Bank	Oxford	Massachusetts.
Colonial Federal Savings Bank	Quincy	Massachusetts.
Reading Co-operative Bank	Reading	Massachusetts.
Southbridge Savings Bank	Southbridge	Massachusetts.
Mechanics Co/operative Bank	Taunton	Massachusetts.
Woronoco Savings Bank	Westfield	Massachusetts.
South Shore Savings Bank	Weymouth	Massachusetts.
Bow Mills Bank and Trust	Bow	New Hampshire.
Citizens Bank New Hampshire	Manchester	New Hampshire.
Newport Federal Savings Bank	Newport	Rhode Island.
Merchants Bank	Burlington	Vermont.
National Bank of Middlebury	Middlebury	Vermont.
Union Bank	Morrisville	Vermont.
Northfield Savings Bank	Northfield	Vermont.

Federal Home Loan Bank of Pittsburgh—District 2

Audubon Savings Bank	Audubon	New Jersey.
Bogota Savings Bank	Bogota	New Jersey.
Peoples Savings Bank	Bordentown	New Jersey.
Century Savings Bank	Bridgeton	New Jersey.
Colonial Bank FSB	Bridgeton	New Jersey.
Sturdy Savings Bank	Cape May Court House	New Jersey.
NVE Bank	Englewood	New Jersey.
Glen Rock Savings Bank	Glen Rock	New Jersey.
Roma Bank	Hamilton	New Jersey.
Schuyler Savings Bank	Kearny	New Jersey.
Kearny Federal Savings Bank	Kearny	New Jersey.
Lincoln Park Savings	Lincoln Park	New Jersey.
Metuchen Savings Bank	Metuchen	New Jersey.
Boiling Springs Savings Bank	Rutherford	New Jersey.
Gloucester County Federal Savings Bank	Sewell	New Jersey.
Penn Federal Savings Bank	West Orange	New Jersey.
Evans National Bank	Angola	New York.
Independence Community Bank	Brooklyn	New York.
Elmira Savings Bank, FSB	Elmira	New York.
The First National Bank of Jeffersonville	Jeffersonville	New York.
Cattaraugus County Bank	Little Valley	New York.
Abacus Federal Savings Bank	New York	New York.
Chinatown Federal Savings Bank	New York	New York.
Wallkill Valley FS&LA	Wallkill	New York.
Doral Bank	Catano	Puerto Rico.
Oriental Bank & Trust	San Juan	Puerto Rico.

Federal Home Loan Bank of Pittsburgh—District 3

Altoona First Savings Bank	Altoona	Pennsylvania.
Pennsylvania State Bank	Camp Hill	Pennsylvania.
First Carnegie Deposit	Carnegie	Pennsylvania.
Coatesville Savings Bank	Coatesville	Pennsylvania.
Slovenian S&LA of Franklin-Conemaugh	Conemaugh	Pennsylvania.
First National Community Bank	Dunmore	Pennsylvania.
Halifax National Bank	Halifax	Pennsylvania.
Peoples National Bank	Hallstead	Pennsylvania.
Polonia Bank	Huntingdon Valley	Pennsylvania.
Mauch Chunk Trust Company	Jim Thorpe	Pennsylvania
1st Summit Bank	Johnstown	Pennsylvania.
The First National Bank of McConnellsburg	McConnellsburg	Pennsylvania.
Mifflinburg Bank & Trust Company	Mifflinburg	Pennsylvania.

Union National Community Bank	Mount Joy	Pennsylvania.
The Muncy Bank and Trust Company	Muncy	Pennsylvania.
First Penn Bank	Philadelphia	Pennsylvania.
Slovak Savings Bank	Pittsburgh	Pennsylvania.
United-American Savings Bank	Pittsburgh	Pennsylvania.
Eureka Bank	Pittsburgh	Pennsylvania.
Iron and Glass Bank	Pittsburgh	Pennsylvania.
Scottdale Bank and Trust Company	Scottdale	Pennsylvania.
Hamlin Bank and Trust Company	Smethport	Pennsylvania.
Northwest Savings Bank	Warren	Pennsylvania.
Peoples State Bank of Wyalusing	Wyalusing	Pennsylvania.
Leesport Bank	Wyomissing	Pennsylvania.
City National Bank of West Virginia	Charleston	West Virginia.
Citizens Bank of Morgantown	Morgantown	West Virginia.
First National Bank in Ronceverte, WV	Ronceverte	West Virginia.
Advance Financial Savings Bank	Wellsburg	West Virginia..

Federal Home Loan Bank of Atlanta—District 4

The Exchange Bank of Alabama	Altoona	Alabama.
Bank of Alabama	Birmingham	Alabama.
First Commercial Bank	Birmingham	Alabama.
Central State Bank	Calera	Alabama.
The Camden National Bank	Camden	Alabama.
SunSouth Bank	Clio	Alabama.
The Commercial Bank of Demopolis	Demopolis	Alabama.
Southland Bank	Dothan	Alabama.
The Southern Bank Company	Gadsden	Alabama.
First National Bank	Hamilton	Alabama.
The Headland National Bank	Headland	Alabama.
Frontier Bank	Lanett	Alabama.
First State Bank	Lineville	Alabama.
First Citizens Bank	Luverne	Alabama.
Citizens Bank, Inc	Robertsdale	Alabama.
The Slocomb National Bank	Slocomb	Alabama.
First Tuskegee Bank	Tuskegee	Alabama.
First Liberty National Bank	Washington	D.C.
Riggs Bank N.A.	Washington	D.C.
Wilmington Trust FSB	Wilmington	Delaware.
Pointe Bank	Boca Raton	Florida.
BankUnited, FSB	Coral Gables	Florida.
BankAtlantic	Fort Lauderdale	Florida.
Natbank, N.A	Hollywood	Florida.
Unibank	Miami	Florida.
Eagle National Bank of Miami	Miami	Florida.
Kislak National Bank	Miami Lakes	Florida.
Orion Bank	Naples	Florida.
Metro Bank	Orlando	Florida.
First Federal Bank of North Florida	Palatka	Florida.
Bay Bank and Trust	Panama City	Florida.
Federal Trust Bank	Sanford	Florida.
BankTrust	Santa Rosa Beach	Florida.
Capital City Bank	Tallahassee	Florida.
Bay Financial Savings Bank, F.S.B	Tampa	Florida.
Wauchula State Bank	Wauchula	Florida.
Bank of Alapaha	Alapaha	Georgia.
Ebank	Atlanta	Georgia.
The Summit National Bank	Atlanta	Georgia.
Georgia Bank and Trust Company of Augusta	Augusta	Georgia.
The First Bank of Brunswick	Brunswick	Georgia.
Planters & Citizens Bank	Camilla	Georgia.
Newton Federal Bank	Covington	Georgia.
Southeastern Bank	Darien	Georgia.
First National Bank of Coffee County	Douglas	Georgia.
Farmers and Merchants Bank	Eatonton	Georgia.
Elberton Federal Savings & Loan Association	Elberton	Georgia.
Central Bank of Georgia	Ellaville	Georgia.
BankSouth	Greensboro	Georgia.
Crescent Bank & Trust Company	Jasper	Georgia.
Pineland State Bank	Metter	Georgia.
First National Bank of the South	Milledgeville	Georgia.
Gateway Bank and Trust	Ringgold	Georgia.
The Coastal Bank	Savannah	Georgia.
Farmers and Merchants Bank	Statesboro	Georgia.
Spivey State Bank	Swainsboro	Georgia.
Commercial Bank	Thomasville	Georgia.

First Federal Savings and Loan Association	Valdosta	Georgia.
Citizens Bank	Warrenton	Georgia.
Severn Savings Bank, F.S.B	Annapolis	Maryland.
Advance Bank	Baltimore	Maryland.
FedMed Bank, FSB	Baltimore	Maryland.
Fraternity Federal S&L Association	Baltimore	Maryland.
Hamilton Federal Bank	Baltimore	Maryland.
Homewood Federal Savings Bank	Baltimore	Maryland.
Leeds Federal Savings Bank	Baltimore	Maryland.
Provident Bank of Maryland	Baltimore	Maryland.
Saint Casimirs Savings Bank	Baltimore	Maryland.
Presidential Bank, FSB	Bethesda	Maryland.
Peoples Bank of Kent County	Chestertown	Maryland.
The Talbot Bank of Easton	Easton	Maryland.
The Peoples Bank of Elkton	Elkton	Maryland.
Madison Bohemian Savings Bank	Forest Hills	Maryland.
Eastern Savings Bank, FSB	Hunt Valley	Maryland.
K Bank	Owings Mills	Maryland.
Valley Bank of Maryland	Owings Mills	Maryland.
Baltimore County Savings Bank, FSB	Perry Hall	Maryland.
First Shore FS&L Association	Salisbury	Maryland.
American Bank	Silver Spring	Maryland.
Sykesville Federal Savings Association	Sykesville	Maryland.
AmericasBank	Towson	Maryland.
Home Savings Bank, SSB of Eden	Eden	North Carolina.
High Point Bank & Trust Company	High Point	North Carolina.
The Community Bank	Pilot Mountain	North Carolina.
RBC Centura Bank	Rocky Mount	North Carolina.
BB & T of NC	Winston Salem	North Carolina.
Piedmont Federal Savings & Loan Association	Winston Salem	North Carolina.
First Palmetto Savings Bank, FSB	Camden	South Carolina.
Spratt Savings and Loan Association	Chester	South Carolina.
Plantation Federal Bank	Pawleys Island	South Carolina.
Woodruff Federal Savings & Loan Association	Woodruff	South Carolina.
Shore Bank	Accomac	Virginia.
Virginia Commerce Bank	Arlington	Virginia.
Bedford Federal Savings Bank	Bedford	Virginia.
First and Citizens Bank	Monterey	Virginia.
Farmers & Merchants Bank, Eastern Shore	Onley	Virginia.
First Federal Savings Bank of Virginia	Petersburg	Virginia.
Community Bank	Staunton	Virginia.
Southside Bank	Tappahannock	Virginia.

Federal Home Loan Bank of Cincinnati—District 5

Kentucky Home Bank, Inc.	Bardstown	Kentucky.
Bank of Clarkson	Clarkson	Kentucky.
Citizens Federal Savings and Loan Association of Covington	Covington	Kentucky.
Heritage Community Bank	Danville	Kentucky.
South Central Bank, FSB	Edmonton	Kentucky.
The Peoples Bank of Fleming County	Flemingsburg	Kentucky.
State National Bank of Frankfort	Frankfort	Kentucky.
Fredonia Valley Bank	Fredonia	Kentucky.
First National Bank and Trust Company	Georgetown	Kentucky.
First Southern National Bank	Lancaster	Kentucky.
Bank of the Bluegrass & Trust Company	Lexington	Kentucky.
First Federal Bank	Lexington	Kentucky.
Peoples Security Bank	Louisa	Kentucky.
The First Capital Bank of Kentucky	Louisville	Kentucky.
First FS&LA of Morehead	Morehead	Kentucky.
Mount Sterling National Bank	Mt. Sterling	Kentucky.
Traditional Bank, Inc.	Mt. Sterling	Kentucky.
Commonwealth Bank, F.S.B	Mt. Sterling	Kentucky.
Farmers Bank & Trust	Princeton	Kentucky.
Farmers National Bank	Walton	Kentucky.
Belmont Savings Bank	Bellaire	Ohio.
The Citizens National Bank of Bluffton	Bluffton	Ohio.
The Brookville Building and Savings Association	Brookville	Ohio.
First Federal Community Bank of Bucyrus	Bucyrus	Ohio.
First FS&LA of Centerburg	Centerburg	Ohio.
The Franklin Savings and Loan Company	Cincinnati	Ohio.
Columbia Savings Bank	Cincinnati	Ohio.
New Foundation Loan and Building Company	Cincinnati	Ohio.
Warsaw Federal S&LA of Cincinnati	Cincinnati	Ohio.
Charter One Bank, F.S.B	Cleveland	Ohio.
Third FS&LA of Cleveland	Cleveland	Ohio.

United Midwest Savings Bank	DeGraff	Ohio.
Hicksville Building, Loan and Savings Bank	Hicksville	Ohio.
NCB, FSB	Hillsboro	Ohio.
Merchants National Bank	Hillsboro	Ohio.
Home Savings Bank	Kent	Ohio.
First FS&LA of Lakewood	Lakewood	Ohio.
Fairfield Federal S&LA of Lancaster	Lancaster	Ohio.
1st National Bank	Lebanon	Ohio.
Leesburg Federal Savings Bank	Leesburg	Ohio.
The First-Knox Bank of Mount Vernon	Mt. Vernon	Ohio.
New Carlisle Federal Savings Bank	New Carlisle	Ohio.
The Park National Bank	Newark	Ohio.
The First Savings Bank	Norwood	Ohio.
American Savings Bank, fsb	Portsmouth	Ohio.
Home City Federal Savings Bank	Springfield	Ohio.
Belmont National Bank	St. Clairsville	Ohio.
Steel Valley Bank, N.A	St. Clairsville	Ohio.
Perpetual Federal Savings Bank	Urbana	Ohio.
Liberty Savings Bank, F.S.B	Wilmington	Ohio.
North Valley Bank	Zanesville	Ohio.
Farmers & Merchants Bank	Adamsville	Tennessee.
First South Credit Union	Bartlett	Tennessee.
Bank of Crockett	Bells	Tennessee.
InTrust Federal Credit Union	Chattoonaga	Tennessee.
Decatur County Bank	Decaturville	Tennessee.
Chester County Bank	Henderson	Tennessee.
The Bank of Jackson	Jackson	Tennessee.
People's Community Bank	Johnson City	Tennessee.
Wilson Bank and Trust	Lebanon	Tennessee.
First National Bank of Tennessee	Livingston	Tennessee.
Trust One Bank	Memphis	Tennessee.
Citizens Bank	New Tazewell	Tennessee.
Newport Federal Bank	Newport	Tennessee.
Citizens National Bank	Sevierville	Tennessee.

Federal Home Loan Bank of Indianapolis—District 6

Independent Federal Credit Union	Anderson	Indiana.
Boonville Federal Savings Bank	Boonville	Indiana.
Riddell National Bank	Brazil	Indiana.
Union Savings & Loan Association	Connersville	Indiana.
First Federal Savings Bank	Evansville	Indiana.
Pacesetter Bank	Hartford City	Indiana.
Kentland Federal Savings and Loan Association	Kentland	Indiana.
The La Porte Savings Bank	La Porte	Indiana.
Logansport Savings Bank, FSB	Logansport	Indiana.
Home Bank, SB	Martinsville	Indiana.
Peoples Bank SB	Munster	Indiana.
Farmers State Bank	New Ross	Indiana.
First Bank Richmond, N.A	Richmond	Indiana.
Mid-Southern Savings Bank, FSB	Salem	Indiana.
Owen County State Bank	Spencer	Indiana.
Grant County State Bank	Swayzee	Indiana.
First State Bank, Southwest Indiana	Tell City	Indiana.
Liberty Savings Bank, FSB	Whiting	Indiana.
Commercial Bank	Alma	Michigan.
Fidelity Bank	Birmingham	Michigan.
Tri-County Bank	Brown City	Michigan.
Monarch Community Bank	Coldwater	Michigan.
Paramount Bank	Farmington Hills	Michigan.
Select Bank	Grand Rapids	Michigan.
Peoples State Bank	Hamtramck	Michigan.
Union Bank	Lake Odessa	Michigan.
Peoples State Bank of Munising	Munising	Michigan.
New Buffalo Savings Bank, FSB	New Buffalo	Michigan.
Thumb National Bank & Trust	Pigeon	Michigan.
Citizens First Savings Bank	Port Huron	Michigan.
LaSalle Federal Savings Bank	St. Joseph	Michigan.
First National Bank of Three Rivers	Three Rivers	Michigan.
First National Bank of Wakefield	Wakefield	Michigan..

Federal Home Loan Bank of Chicago—District 7

First Community Bank and Trust	Beecher	Illinois.
First State Bank of Beecher City	Beecher City	Illinois.
BankFinancial, F.S.B.	Burr Ridge	Illinois.

The First National Bank in Carlyle	Carlyle	Illinois.
BankChampaign, N.A	Champaign	Illinois.
NAB Bank	Chicago	Illinois.
Washington Federal Bank for savings	Chicago	Illinois.
South Central Bank	Chicago	Illinois.
Oak Bank	Chicago	Illinois.
North Federal Savings Bank	Chicago	Illinois.
Illinois Service FS&LA	Chicago	Illinois.
Community Savings Bank	Chicago	Illinois.
Pulaski Savings Bank	Chicago	Illinois.
Labe Bank	Chicago	Illinois.
Family Federal Savings of Illinois	Cicero	Illinois.
West Town Savings Bank	Cicero	Illinois.
The John Warner Bank	Clinton	Illinois.
The Elizabeth State Bank	Elizabeth	Illinois.
Flora Bank & Trust	Flora	Illinois.
Community Bank—Wheaton/Glen Ellyn	Glen Ellyn	Illinois.
Illinois State Bank	Lake in the Hills	Illinois.
Heritage State Bank	Lawrenceville	Illinois.
1st State Bank of Mason City	Mason City	Illinois.
Mazon State Bank	Mazon	Illinois.
McHenry Savings Bank	McHenry	Illinois.
City National Bank of Metropolis	Metropolis	Illinois.
First National Bank	Moline	Illinois.
Brown County State Bank	Mount Sterling	Illinois.
Wabash Savings Bank	Mt. Carmel	Illinois.
The Farmers Bank	Mt. Pulaski	Illinois.
Regency Savings Bank	Oak Park	Illinois.
Pekin Savings Bank	Pekin	Illinois.
The Herget National Bank of Pekin	Pekin	Illinois.
Peru Federal Savings Bank	Peru	Illinois.
National Bank of Petersburg	Petersburg	Illinois.
Citizens State Bank of Shipman	Shipman	Illinois.
Farmers State Bank of Somonauk	Somonauk	Illinois.
Marine Bank, Springfield	Springfield	Illinois.
Town & Country Bank	Springfield	Illinois.
Tremont Savings Bank	Tremont	Illinois.
Banner Banks	Birnamwood	Wisconsin.
Community First Bank	Boscobel	Wisconsin.
North Shore Bank FSB	Brookfield	Wisconsin.
Bank North	Crivitz	Wisconsin.
Advantage Community Bank	Dorchester	Wisconsin.
PremierBank	Fort Atkinson	Wisconsin.
First Northern Savings Bank	Green Bay	Wisconsin.
Green Lake State Bank	Green Lake	Wisconsin.
PyraMax Bank	Greenfield	Wisconsin.
Greenleaf Wayside Bank	Greenleaf	Wisconsin.
Hustisford State Bank	Hustisford	Wisconsin.
Mid America Bank	Janesville	Wisconsin.
Union State Bank	Kewaunee	Wisconsin.
Bank of Lake Mills	Lake Mills	Wisconsin.
BLC Community Bank	Little Chute	Wisconsin
Rural American Bank—Luck	Luck	Wisconsin.
Home Savings Bank	Madison	Wisconsin.
AnchorBank, fsb	Madison	Wisconsin.
The Peoples State Bank	Mazomanie	Wisconsin.
Bremer Bank, National Association	Menomonie	Wisconsin.
Middleton Community Bank	Middleton	Wisconsin.
First Community Bank	Milton	Wisconsin.
Milton Savings Bank	Milton	Wisconsin.
West Pointe Bank	Oshkosh	Wisconsin.
Wisconsin State Bank	Random Lake	Wisconsin.
The Reedsburg Bank	Reedsburg	Wisconsin.
Dairy State Bank	Rice Lake	Wisconsin.
Community Business Bank	Sauk City	Wisconsin.
Baylake Bank	Sturgeon Bay	Wisconsin.
Superior Savings Bank	Superior	Wisconsin.
Farmers & Merchants Bank	Tomah	Wisconsin.
The National Bank of Waupun	Waupun	Wisconsin.
Maritime Savings Bank	West Allis	Wisconsin.
West Bend Savings Bank	West Bend	Wisconsin.
First Citizens State Bank	Whitewater	Wisconsin.

Federal Home Loan Bank of Des Moines—District 8

Peoples State Bank	Albia	Iowa.

Community Bank	Alton	Iowa.
Bank Iowa	Altoona	Iowa.
First National Bank	Ames	Iowa.
Farmers & Traders Savings Bank	Bancroft	Iowa.
Chelsea Savings Bank	Belle Plaine	Iowa.
Boone Bank & Trust Company	Boone	Iowa.
IA Prairie Bank	Brunsville	Iowa.
Guaranty Bank & Trust Company	Cedar Rapids	Iowa.
Cherokee State Bank	Cherokee	Iowa.
First State Bank	Conrad	Iowa.
Dubuque Bank & Trust Company	Dubuque	Iowa.
First Federal Savings Bank of Iowa	Fort Dodge	Iowa.
Mills County Bank N.A	Glenwood	Iowa.
Security State Bank	Guttenberg	Iowa.
Farmers Savings Bank	Halbur	Iowa.
First State Bank	Hawarden	Iowa.
Farmers State Bank	Hawarden	Iowa.
Humboldt Trust & Savings Bank	Humboldt	Iowa.
State Central Bank	Keokuk	Iowa.
Heritage Bank	Marion	Iowa.
F & M Bank—Iowa	Marshalltown	Iowa.
Security State Bank	Red Oak	Iowa.
Lincoln Savings Bank	Reinbeck	Iowa.
Sibley State Bank	Sibley	Iowa.
Security State Bank	Stuart	Iowa.
First State Bank	Sumner	Iowa.
Farmers Savings Bank & Trust—Vinton	Vinton	Iowa.
Webster City Federal Savings Bank	Webster City	Iowa.
Community State Bank	West Branch	Iowa.
Citizens State Bank	Wyoming	Iowa.
Farmers State Bank of Adams	Adams	Minnesota.
Bremer Bank, NA	Alexandria	Minnesota.
State Bank of Aurora	Aurora	Minnesota.
State Bank of Bellingham	Bellingham	Minnesota.
Star Bank, N.A	Bertha	Minnesota.
Farmers and Merchants State Bank	Blooming Prairie	Minnesota.
First National Bank of Blue Earth	Blue Earth	Minnesota.
First National Bank of Deer River	Deer River	Minnesota.
The First National Bank of Deerwood	Deerwood	Minnesota.
State Bank of Kimball	Kimball	Minnesota.
Lake Elmo Bank	Lake Elmo	Minnesota.
First National Bank of Le Center	Le Center	Minnesota.
First State Bank MN	LeRoy	Minnesota.
Community FS&LA of Little Falls	Little Falls	Minnesota.
Prairie Sun Bank	Milan	Minnesota.
Peoples National Bank of Mora	Mora	Minnesota.
First Federal Savings Bank	Morris	Minnesota.
United Prairie Bank New Ulm	New Ulm	Minnesota.
Community National Bank	North Branch	Minnesota.
Northwoods Bank of MN, FSB	Park Rapids	Minnesota.
Pine City State Bank	Pine City	Minnesota.
Prior Lake State Bank	Prior Lake	Minnesota.
Minnwest Bank, M.V	Redwood Falls	Minnesota.
First Independent Bank	Russell	Minnesota.
United Prairie Bank—Spicer	Spicer	Minnesota.
Highland Bank	St. Michael	Minnesota.
State Bank of Tower	Tower	Minnesota.
Security State Bank of Wanamingo	Wanamingo	Minnesota.
Ozark Mountain Bank	Branson	Missouri.
O'Bannon Banking Company	Buffalo	Missouri.
First National Bank	Camdenton	Missouri.
Horizon State Bank	Cameron	Missouri.
Canton State Bank	Canton	Missouri.
Bank 21	Carrollton	Missouri.
State Bank of Missouri	Concordia	Missouri.
Eminence Security Bank	Eminence	Missouri.
Rockwood Bank	Eureka	Missouri.
Allen Bank & Trust Company	Harrisonville	Missouri.
Jonesburg State Bank	Jonesburg	Missouri.
Blue Ridge Bank & Trust Company	Kansas City	Missouri.
Missouri Bank & Trust Company	Kansas City	Missouri.
Kearney Commercial Bank	Kearney	Missouri.
Neosho Savings & Loan Association, F.A	Neosho	Missouri.
Bank of New Madrid	New Madrid	Missouri.
Ozark Bank	Ozark	Missouri.
Belgrade State Bank	Potosi	Missouri.

Progressive Ozark Bank, FSB	Salem	Missouri.
The First National Bank of Sarcoxie	Sarcoxie	Missouri.
Security Bank & Trust Company	Scott City	Missouri.
Community State Bank	Shelbina	Missouri.
Central West End Bank, A FSB	St. Louis	Missouri.
Missouri State Bank & Trust Company	St. Louis	Missouri.
Community Bank, NA	Summersville	Missouri.
Peoples Bank & Trust Company	Troy	Missouri.
Bank of Urbana	Urbana	Missouri.
The Missouri Bank	Warrenton	Missouri.
Security Bank of Pulaski County	Waynesville	Missouri.
Farmers & Merchants Bank	Wright City	Missouri.
The First State Bank of North Dakota	Arthur	North Dakota.
Security State Bank of North Dakota	Jamestown	North Dakota.
The Goose River Bank	Mayville	North Dakota.
The First State Bank of Munich	Munich	North Dakota.
Liberty State Bank	Powers Lake	North Dakota.
Dacotah Bank—Valley City	Valley City	North Dakota.
Dakota Heritage State Bank	Chancellor	South Dakota.
The First Western Bank Custer	Custer	South Dakota.
Reliabank Dakota	Estelline	South Dakota.
Campbell County Bank, Inc	Herreid	South Dakota.
Plains Commerce Bank	Hoven	South Dakota.
First State Bank of Miller	Miller	South Dakota.
CorTrust Bank, N.A	Mitchell	South Dakota.
American State Bank	Oldham	South Dakota.
American State Bank of Pierre	Pierre	South Dakota.
Farmers and Merchants State Bank	Plankinton	South Dakota.
Valley Bank NA	Sioux Falls	South Dakota.
First Premier Bank	Sioux Falls	South Dakota.
The First Western Bank Sturgis	Sturgis	South Dakota.
Commercial State Bank	Wagner	South Dakota.
The First Western Bank Wall	Wall	South Dakota.

Federal Home Loan Bank of Dallas—District 9

Elk Horn Bank & Trust Company	Arkadelphia	Arkansas.
First National Bank of Howard County	Dierks	Arkansas.
Merchants and Farmers Bank	Dumas	Arkansas.
Planters & Merchants Bank	Gillett	Arkansas.
Calhoun County Bank	Hampton	Arkansas.
Community First Bank	Harrison	Arkansas.
The Cleburne County Bank	Heber Springs	Arkansas.
One Bank & Trust	Little Rock	Arkansas.
Pulaski Bank & Trust Company	Little Rock	Arkansas.
Farmers Bank & Trust Company	Magnolia	Arkansas.
Union Bank and Trust Company	Monticello	Arkansas.
Priority Bank	Ozark	Arkansas.
United Bank	Springdale	Arkansas.
Farmers & Merchants Bank	Stuttgart	Arkansas.
Abbeville Building & Loan, a State Chartered SB	Abbeville	Louisiana.
The Business Bank of Baton Rouge	Baton Rouge	Louisiana.
Crowley Building & Loan Association	Crowley	Louisiana.
United Community Bank	Gonzales	Louisiana.
The Union Bank	Marksville	Louisiana.
American Horizons Bank	Monroe	Louisiana.
Iberia Bank	New Iberia	Louisiana.
Crescent Bank & Trust	New Orleans	Louisiana.
Fidelity Homestead Association	New Orleans	Louisiana.
First Financial Bank & Trust	Plaquemine	Louisiana.
Citizens Bank & Trust Company	Plaquemine	Louisiana.
Community Trust Bank	Ruston	Louisiana.
Central Progressive Bank Amite	Slidell	Louisiana.
Bank of Zachary	Zachary	Louisiana.
Magnolia State Bank	Bay Springs	Mississippi.
Grand Bank for Savings, fsb	Hattiesburg	Mississippi.
The First, A National Banking Association	Hattiesburg	Mississippi.
Trustmark National Bank	Jackson	Mississippi.
OmniBank	Jackson	Mississippi.
State Bank & Trust Company	Jackson	Mississippi.
BankFirst Financial Services	Macon	Mississippi.
Bank of New Albany	New Albany	Mississippi.
Bank of Okolona	Okolona	Mississippi.
First Federal Savings & Loan	Pascagoula	Mississippi.
Bank of Yazoo City	Yazoo City	Mississippi.
Union Savings Bank	Albuquerque	New Mexico.

Western Bank of Clovis	Clovis	New Mexico.
Gallup Federal Savings Bank	Gallup	New Mexico.
Citizens Bank of Las Cruces	Las Cruces	New Mexico.
The Bank of Las Vegas	Las Vegas	New Mexico.
Century Bank, FSB	Santa Fe	New Mexico.
Franklin Bank, SSB	Austin	Texas.
IBM Texas Employees Federal Credit Union	Austin	Texas.
Lamar Bank	Beaumont	Texas.
The First National Bank of Beeville	Beeville	Texas.
Bonham State Bank	Bonham	Texas.
Shelby Savings Bank, ssb	Center	Texas.
Chappell Hill Bank	Chappell Hill	Texas.
Charter Bank Northwest	Corpus Christi	Texas.
First Security State Bank	Cranfills Gap	Texas.
First National Bank of Crockett	Crockett	Texas.
First National Bank in Dalhart	Dalhart	Texas.
First State Bank of North Texas	Dallas	Texas.
Inwood National Bank	Dallas	Texas.
Prosperity Bank	El Campo	Texas.
First Command Bank	Fort Worth	Texas.
Happy State Bank	Happy	Texas.
Henderson FSB	Henderson	Texas.
First Community Bank San Antonio, NA	Houston	Texas.
Encore Bank	Houston	Texas.
Horizon Capital Bank	Houston	Texas.
State Bank	La Grange	Texas.
Spring Hill State Bank	Longview	Texas.
Angelina Savings Bank, FSB	Lufkin	Texas.
Northeast National Bank	Mesquite	Texas.
Guaranty Bond Bank	Mt. Pleasant	Texas.
Olympic Savings Association	Refugio	Texas.
First State Bank	Stratford	Texas.
Alliance Bank	Sulphur Springs	Texas.
First State Bank Central Texas	Temple	Texas.
First Federal Bank Texas	Tyler	Texas.
First National Bank of Weatherford	Weatherford	Texas.

Federal Home Loan Bank of Topeka—District 10

Colorado Central Credit Union	Arvada	Colorado.
Valley Bank & Trust Company	Brighton	Colorado.
Farmers State Bank of Calhan	Calhan	Colorado.
Castle Rock Bank	Castle Rock	Colorado.
BankWest	Castle Rock	Colorado.
FirstBank of Colorado Springs	Colorado Springs	Colorado.
First National Bank of Durango	Durango	Colorado.
High Plains Bank	Flagler	Colorado.
Morgan Federal Bank	Fort Morgan	Colorado.
Colorado Federal Savings Bank	Greenwood Village	Colorado.
Colorado East Bank & Trust	Lamar	Colorado.
First National Bank in Lamar	Lamar	Colorado.
The First National Bank of Anthony	Anthony	Kansas.
Peoples Exchange Bank	Belleville	Kansas.
Guaranty State Bank & Trust Company	Beloit	Kansas.
Caldwell State Bank	Caldwell	Kansas.
The Elk State Bank	Clyde	Kansas.
Citizens Bank NA	Fort Scott	Kansas.
Citizens State Bank and Trust Company	Hiawatha	Kansas.
Central Bank and Trust Company	Hutchinson	Kansas.
Inter-State FS&LA of Kansas City	Kansas City	Kansas.
Kanza Bank	Kingman	Kansas.
Citizens Savings and Loan Association, FSB	Leavenworth	Kansas.
First Savings Bank FSB	Manhattan	Kansas.
First State Bank	Norton	Kansas.
First FS&LA of Olathe	Olathe	Kansas.
First Option Bank	Osawatomie	Kansas.
Valley State Bank	Roeland Park	Kansas.
The Roxbury Bank	Roxbury	Kansas.
Thunder Bank	Sylvan Grove	Kansas.
The Columbian Bank and Trust Company	Topeka	Kansas.
First National Bank of Ainsworth	Ainsworth	Nebraska.
Community Bank	Alma	Nebraska.
Auburn State Bank	Auburn	Nebraska.
Bruning State Bank	Bruning	Nebraska.
Butte State Bank	Butte	Nebraska.
South Central State Bank	Campbell	Nebraska.

First National Bank & Trust Company	Columbus	Nebraska.
Cedar Security Bank	Fordyce	Nebraska.
City Bank & Trust Company	Lincoln	Nebraska.
Security Home Bank	Malmo	Nebraska.
Commercial Federal Bank	Omaha	Nebraska.
Security National Bank of Omaha	Omaha	Nebraska.
Pinnacle Bank—Nebraska	Papillion	Nebraska.
Horizon Bank	Waverly	Nebraska.
Bank of Yutan	Yutan	Nebraska.
First National Bank & Trust Company of Ardmore	Ardmore	Oklahoma.
Citizens Security Bank & Trust	Bixby	Oklahoma.
Home National Bank	Blackwell	Oklahoma.
Chickasha Bank and Trust Company	Chickasha	Oklahoma.
First Bank & Trust Company	Clinton	Oklahoma.
The First National Bank in Durant	Durant	Oklahoma.
The First Bank of Haskell	Haskell	Oklahoma.
Republic Bank of Norman	Norman	Oklahoma.
First National Bank of Oklahoma	Oklahoma City	Oklahoma.
Lakeside State Bank	Oologah	Oklahoma.
First American Bank	Purcell	Oklahoma.
Sulphur Community Bank	Sulphur	Oklahoma.

Federal Home Loan Bank of San Francisco—District 11

Johnson Bank of Arizona, N.A	Phoenix	Arizona.
Valley Independent Bank	El Centro	California.
Xerox Federal Credit Union	El Segundo	California.
First Commerce Bank	Encino	California.
Fremont Bank	Fremont	California.
Commercial Capital Bank FSB	Irvine	California.
American First Credit Union	La Habra	California.
International City Bank	Long Beach	California.
California National Bank	Los Angeles	California.
National Bank of California	Los Angeles	California.
Preferred Bank	Los Angeles	California.
The Vintage Bank	Napa	California.
Oak Valley Community Bank	Oakdale	California.
United Labor Bank, fsb	Oakland	California.
Palm Desert National Bank	Palm Desert	California.
Greater Bay Bank	Palo Alto	California.
Malaga Bank SSB	Palos Verdes Estates	California.
PFF Bank & Trust	Pomona	California.
North Valley Bank	Redding	California.
The Bank of Hemet	Riverside	California.
California Savings Bank	San Francisco	California.
Citibank West, FSB	San Francisco	California.
Summit State Bank	Santa Rosa	California.
Temecula Valley Bank, NA	Temecula	California.

Federal Home Loan Bank of Seattle—District 12

Northrim Bank	Anchorage	Alaska.
Northern Schools Federal Credit Union	Fairbanks	Alaska.
BankPacific, Ltd	Hagatna	Guam.
Finance Factors, Limited	Honolulu	Hawaii.
Hawaii State Federal Credit Union	Honolulu	Hawaii.
Bank of Commerce	Idaho Falls	Idaho.
Ireland Bank	Malad	Idaho.
First Federal Savings Bank of Twin Falls	Twin Falls	Idaho.
United Banks, N.A	Absarokee	Montana.
Pioneer Federal Savings & Loan Association	Dillon	Montana.
Pacific Continental Bank	Eugene	Oregon.
First FS&LA of McMinnville	McMinnville	Oregon.
Albina Community Bank	Portland	Oregon.
Community First Bank	Prineville	Oregon.
Bank of American Fork	American Fork	Utah.
Home Savings Bank	Salt Lake City	Utah.
Trans West Credit Union	Salt Lake City	Utah.
Horizon Bank	Bellingham	Washington.
Bank of Fairfield	Fairfield	Washington.
Timberland Bank	Hoquiam	Washington.
Kitsap Bank	Port Orchard	Washington.
Valley Bank	Puyallup	Washington.
First Savings Bank of Renton	Renton	Washington.
HomeStreet Bank	Seattle	Washington.
Washington First International Bank	Seattle	Washington.

Bank of Star Valley	Afton	Wyoming.
Oregon Trail Bank	Guernsey	Wyoming.
First National Bank & Trust	Powell	Wyoming.
Pinnacle Bank—Wyoming	Torrington	Wyoming.
First National Bank, Torrington	Torrington	Wyoming.

II. Public Comments

To encourage the submission of public comments on the community support performance of Bank members, on or before October 29, 2004, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2004–05 third quarter review cycle. 12 CFR 944.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. 12 CFR 944.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 2004–05 third quarter review cycle must be delivered to the Finance Board on or before the November 26, 2004 deadline for submission of Community Support Statements.

Dated: October 6, 2004.

Mark J. Tenhundfeld,

General Counsel.

[FR Doc. 04–22929 Filed 10–12–04; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 8, 2004.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106–2204:

1. OceanPoint Financial Partners, MHC, and OceanPoint Financial Partners, LLC, both of Newport, Rhode Island; to become bank holding companies by acquiring 100 percent of Bank Newport, Newport, Rhode Island.

B. Federal Reserve Bank of Cleveland (Cindy C. West, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Croghan Bancshares, Inc., Fremont, Ohio; to acquire 100 percent of the voting shares of The Croghan Interim Bank, Fremont, Ohio, and The Custar State Bank, Custar, Ohio.

C. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Heritage Financial, Inc., and Heritage Mutual Corporation, both of Albany, Georgia; to become bank holding companies by acquiring 100 percent of the voting shares of HeritageBank of the South, Albany, Georgia.

D. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Signature Bank Corporation, Windsor, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Signature Bank, Windsor, Colorado, in organization.

E. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of First Community Capital Corporation, Houston, Texas, and thereby indirectly acquire voting shares of First Community Capital Corporation of Delaware, Inc., Wilmington, Delaware, First Community Bank, N.A., Houston, Texas, and First Community Bank San Antonio, N.A., San Antonio, Texas.

Board of Governors of the Federal Reserve System, October 6, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–22903 Filed 10–12–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''). The FTC is seeking public comments on its proposal to extend through September 30, 2007 the current PRA clearance for information collection requirements contained in (1) the Rule Concerning Disclosure of Written Consumer Product Warranty Terms and Conditions; (2) the Rule Governing Pre-Sale Availability of Written Warranty Terms; and (3) the Informal Dispute Settlement Procedures Rule. (OMB Control Numbers 3084–0111, 3084–0112, and 3084–0113, respectively, ''Warranty Rules,'' collectively). These clearances were scheduled to expire on September 30, 2004. On September 14, 2004, the OMB granted the FTC's request for a short-term extension to October 31, 2004 to allow for this second opportunity to comment.

DATES: Comments must be submitted on or before November 12, 2004.

ADDRESSES: Interested parties are invited to submit written comments.

Comments should refer to ''Warranty Rules: Paperwork Comment, P044403'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H–159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.'' [1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

All comments should additionally be submitted via facsimile to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, fax #: (202) 395–6974.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Carole Danielson, Investigator, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Room H–238, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3115.

SUPPLEMENTARY INFORMATION: On July 14, 2004, the FTC sought comment on the information collection requirements associated with the Warranty Rules, 16 CFR Parts 701–703 (Control Numbers 3084–0111, 3084–0112, and 3084–0113). See 69 FR 42172. No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule.

The Warranty Rules implement the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.* (''the Act''), which required the FTC to issue three rules relating to warranties on consumer products: the disclosure of written warranty terms and conditions; pre-sale availability of warranty terms; and rules establishing minimum standards for informal dispute settlement mechanisms that are incorporated into a written warranty.[2]

Consumer Product Warranty Rule (''Warranty Rule''): The Warranty Rule, 16 CFR 701, specifies the information that must appear in a written warranty on a consumer product. The Rule tracks Section 102(a) of the Act,[3] specifying information that must appear in the written warranty and, for certain disclosures, mandates the exact language that must be used.[4]

The Rule Governing Pre-Sale Availability of Written Warranty Terms (''Pre-Sale Availabilty Rule'): The Pre-Sale Availability Rule, 16 CFR 702, requires sellers and warrantors to make the text of any written warranty on a consumer product available to the consumer before sale. Among other things, the Rule requires sellers to make the text of the warranty readily available either by (1) displaying it in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that the warranty is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements, and also sets out the methods by which warranty information can be made available before the sale if the product is sold through catalogs, mail order, or door-to-door sales.

Informal Dispute Settlement Rule: The Informal Dispute Settlement Rule, 16 CFR 703, specifies the minimum standards which must be met by any informal dispute settlement mechanism that is incorporated into a written consumer product warranty and which the consumer must use before pursuing legal remedies in court. In enacting the Warranty Act, Congress recognized the potential benefits of consumer dispute mechanisms as an alternative to the judicial process. Section 110(a) of the Act sets out the Congressional policy to ''encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms'' (''IDSMs'') and erected a framework for their establishment. As an incentive to warrantors to establish IDSMs, Congress provided in Section 110(a)(3), 15 U.S.C. 2310(a)(3), that warrantors may incorporate into their written consumer product warranties a requirement that a consumer must resort to an IDSM before pursuing a legal remedy under the Act for breach of warranty. To ensure fairness to consumers, however, Congress also directed that, if a warrantor were to incorporate such a ''prior resort requirement'' into its written warranty, the warrantor must comply with the minimum standards set by the Commission for such IDSMs. Section 110(a)(2) directed the Commission to establish those minimum standards.

The Informal Dispute Settlement Rule contains standards for IDSMs, including requirements concerning the mechanism's structure (*e.g.*, funding, staffing, and neutrality), the qualifications of staff or decision makers, the mechanism's procedures for resolving disputes (*e.g.*, notification, investigation, time limits for decisions, and follow-up), recordkeeping, and annual audits. The Rule requires that warrantors establish written operating procedures and provide copies of those procedures upon request.

This rule applies only to those firms that choose to be bound by it by requiring consumers to use an IDSM. Neither the Rule nor the Act requires warrantors to set up IDSMs. A warrantor is free to set up an IDSM that does not comply with this rule as long as the warranty does not contain a prior resort requirement.

Warranty Rule Burden Statement

Total annual hours burden: 34,000 hours. In 2001, the FTC estimated that the information collection burden of including the disclosures required by the Warranty Rule in consumer product warranties was approximately 34,000 hours per year. Because the Rule's paperwork requirements have not changed since then, and staff believes that the number of manufacturers affected is largely unchanged, staff concludes that its prior estimate remains reasonable. Moreover, because most warrantors would now disclose

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

[2] 40 FR 60168 (December 31, 1975).

[3] 15 U.S.C. 2302(a).

[4] 40 FR 60168, 60169–60170.

this information even if there were no statute or rule requiring them to do so, this estimate and those below pertaining to the Warranty Rule likely overstate the paperwork burden attributable to it. The Rule has been in effect since 1976, and most warrantors have already modified their warranties to include the information the Rule requires.

The above estimate is derived as follows. Based on conversations with various warrantors' representatives over the years, staff has concluded that eight hours per year is a reasonable estimate of warrantors' paperwork burden attributable to the Warranty Rule. This estimate includes the task of ensuring that new warranties and changes to existing warranties comply with the Rule. Staff continues to estimate that there are 4,241 manufacturing entities, which results in a burden figure of 33,928 hours (4,241 × 8 hours annually/manufacturer), rounded to 34,000.

Total annual labor costs: Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. The work required to comply with the Warranty Rule is predominantly clerical. Based on an average hourly rate of $14 for clerical employees and 34,000 total burden hours, the annual labor cost is approximately $476,000.[5]

Total annual capital or other non-labor costs: The Rule imposes no appreciable current capital or start-up costs. The vast majority of warrantors have already modified their warranties to include the information the Rule requires. Rule compliance does not require the use of any capital goods, other than ordinary office equipment, which providers would already have available for general business use.

Pre-Sale Availability Rule Burden Statement

Total annual hours burden: Staff estimates that the burden of including the disclosures required by the Pre-Sale Availability Rule in consumer product warranties is 2,760,000 hours, rounded to the nearest thousand.

In 2001, FTC staff estimated that the information collection burden of including the disclosures required by the Pre-Sale Availability Rule in consumer product warranties was approximately 2,760,000 hours per year. There has been no change in the Rule's paperwork requirements since the previous clearance request in 2001, and the staff has determined, based on its knowledge of the industry, that the number of manufacturers subject to the Rule remains largely unchanged. Staff continues to estimate that there are 6,552 large retailers, 422,100 small retailers, 146 large manufacturers, and 4,095 small manufacturers. Staff estimates that large retailers spend an average of 26 hours per year and small retailers an average of 6 hours per year to comply with the Rule. This yields a total burden of 2,702,952 hours for retailers. Large manufacturers spend an average of 52 hours per year and small manufacturers spend an average of 12 hours per year, for a total burden estimate of 56,732 hours. Thus, the combined total burden is 2,760,000 hours, rounded to the nearest thousand.

Since 2001, some online retailers have begun to post warranty information on their web sites, which should reduce their cost of providing the required information. However, this method of compliance is still evolving and involves a relatively small number of firms. Furthermore, those online retailers that also operate ''brick-and-mortar'' operations would still have to provide paper copies of the warranty for review by those customers who do not do business online. Thus, online methods of complying with the Rule do not yet appear to be sufficiently widespread so as to significantly alter the measure of burden associated with the Rule, although it is likely to decrease that burden in the future.

Total annual labor cost: The work required to comply with the Pre-Sale Availability Rule is predominantly clerical, *e.g.*, providing copies of manufacturer warranties to retailers and retailer maintenance of them. Assuming a clerical labor cost rate of $14/hour, the total annual labor cost burden is approximately $38,640,000.

Total annual capital or other non-labor costs: De minimis. The vast majority of retailers and warrantors already have developed systems to provide the information the Rule requires. Compliance by retailers typically entails simply filing warranties in binders and posting an inexpensive sign indicating warranty availability.[6] Manufacturer compliance entails providing retailers with a copy of the warranties included with their products.

Informal Dispute Settlement Rule Burden Statement

Total annual hours burden: 30,000 hours. The primary burden from the Informal Dispute Settlement Rule comes from its recordkeeping requirements that apply to IDSMs incorporated into a consumer product warranty. The burden of the rule's disclosure requirements is limited. Staff estimates that recordkeeping and reporting burdens are 21,754 hours per year and the disclosure burdens are 8,157 hours per year. The total estimated burden imposed by the Rule is thus approximately 30,000 hours, rounded to the nearest thousand. This marks a decrease from staff's estimates in 2001. At that time, staff estimated that the recordkeeping and reporting burden was 24,625 hours per year and 9,235 hours per year for disclosure requirements or, cumulatively, approximately 34,000 hours.[7]

Although the Rule's paperwork requirements have not changed since the FTC's PRA clearance request in 2001, the audits filed by the IDSMs indicate that fewer disputes were handled in 2002, which reduces the annual hours burden. The calculations underlying these new estimates follow.

Recordkeeping: The Rule requires that IDSMs maintain individual case files, update indexes, complete semi-annual statistical summaries, and submit an annual audit report to the FTC. Most of the recordkeeping hours are attributed to compiling individual case records. Because maintaining individual case records is a necessary function for any IDSM, much of the burden would be incurred in the ordinary course of the IDSM's business; however, staff estimates that the Rule's recordkeeping requirements impose an additional burden of 30 minutes per case. Staff also has allocated 10 minutes per case for compiling indexes, statistical summaries, and the annual audit required by the Rule, resulting in a total recordkeeping requirement of 40 minutes per case.

The amount of work required will depend on the number of dispute resolution proceedings undertaken in each IDSM. The 2002 audit report for the BBB AUTO LINE states that, during calendar year 2002, it handled 22,996 warranty disputes on behalf of 14 manufacturers (including General Motors, Saturn, Honda, Volkswagen, Isuzu, Nissan, Rolls Royce and Land Rover).[8] Automobile industry representatives have informed staff that all domestic manufacturers and most importers now include a ''prior resort'' requirement in their warranties, and

[5] The wage rates in this notice have been updated to reflect data from the Bureau of Labor Statistics National Compensation Survey.

[6] Although some retailers may choose to display a more elaborate or expensive sign, that is not required by the Rule.

[7] The data and resulting calculations for the hours and cost burdens for Rule 703 differ slightly from those published in the July 14, 2004, Notice in the **Federal Register**.

[8] So far as staff is aware, all or virtually all of the IDSMs subject to the Rule are within the auto industry.

thus are covered by the Informal Dispute Settlement Rule. Therefore, staff assumes that virtually all of the 22,996 disputes handled by the BBB fall within Rule 703. Apart from the BBB audit report, 2002 reports were also submitted by the mechanisms that handle dispute resolution for Toyota, Chrysler, Ford, and Mitsubishi, all of which are covered by the Rule. The Ford IDSM states that it handled 5,295 total disputes. The National Center for Dispute Settlement handles disputes for Mitsubishi, Toyota and Daimler-Chrysler. The 2002 audits of the Center's operations show 154 in-jurisdiction Mitsubishi disputes were filed; it handled 2,353 in-jurisdiction cases on behalf of Toyota; and closed 1,833 cases involving Daimler-Chrysler. Based on these figures, staff estimates that the total number of disputes handled by Rule 703 mechanisms is approximately 32,631. Thus, staff estimates the total burden to be approximately 21,754 hours (32,631 disputes × 40 minutes ÷ 60).

Disclosure: The Rule requires that information about the mechanism be disclosed in the written warranty. Any incremental costs to the warrantor of including this additional information in the warranty are negligible. The majority of such costs would be borne by the IDSM, which is required to provide to interested consumers upon request copies of the various types of information the IDSM possesses, including annual audits. Consumers who have dealt with the IDSM also have a right to copies of their records. (IDSMs are permitted to charge for providing both types of information.) Given the small number of entities that have operated programs over the years, staff estimates that the burden imposed by the disclosure requirements is approximately 8,157 hours per year for the existing IDSMs to provide copies of this information. This estimate draws from the estimated number of consumers who file claims each year with the IDSMs (32,631) and the assumption that each consumer individually requests copies of the records relating to their dispute. Staff estimates that the copying would require approximately 15 minutes per consumer, including copies of the annual audit.[9] Thus, the IDSMs currently operating under the Rule have an estimated total disclosure burden of 8,157 hours (32,631 claims × 15 min. ÷ 60).

Total annual labor cost: $438,000.

Staff assumes that IDSMs use skilled clerical or technical support staff to compile and maintain the records required by the Rule at an hourly rate of $16; thus, the labor cost associated with the 21,754 recordkeeping burden hours is $348,064. Staff further assumes that IDSMs use clerical support at an hourly rate of $11 to reproduce records, and therefore that the labor costs of the 8,157 disclosure burden hours is approximately $89,727. Accordingly, the combined total labor cost for recordkeeping and disclosures is $437,791, rounded to 438,000.

Total annual capital or other non-labor costs: $300,000.

Total capital and start-up costs: The Rule imposes no appreciable current capital or start-up costs. The vast majority of warrantors have already developed systems to retain the records and provide the disclosures required by the Rule. Rule compliance does not require the use of any capital goods, other than ordinary office equipment, to which providers would already have access.

The only additional cost imposed on IDSMs operating under the Rule that would not be incurred for other IDSMs is the annual audit requirement. One of the IDSMs currently operating under the Rule estimates the total annual costs of this requirement to be under $100,000. Because there are three IDSMs operating under the Rule (Toyota, Mitsubishi, and Chrysler share the same IDSM, though each company is reported separately), staff estimates the total non-labor costs associated with the Rule to be three times that amount, or $300,000.[10] This extrapolated total, however, also reflects an estimated $120,000 for copying costs, which is accounted for separately under the category below. Thus, estimated costs attributable solely to capital or start-up expenditures is $180,000.

Other non-labor costs: $127,500 in copying costs. This total is based on estimated copying costs of 5 cents per page and several conservative assumptions or estimates. Staff estimates that the ''average'' dispute-related file is about 25 pages long and that a typical annual audit file is about 200 pages in length. For purposes of estimating copying costs, staff assumes that every consumer complainant (or approximately 32,631 consumers) requests a copy of the file relating to his or her dispute. Staff also assumes that, for about 6,526 (20%) of the estimated 32,631 disputes each year, consumers request copies of warrantors' annual audit reports (although, based on requests for audit reports made directly to the FTC, the indications are that considerably fewer requests are actually made). Thus, the estimated total annual copying costs for average-sized files is approximately $40,788 (25 pages/file × .05 × 32,631 requests) and $65,260 for copies of annual audits (200 pages/audit report × .05 × 6,526 requests), for total copying costs of $106,048, rounded to $106,050. Beginning with the 2002 audits, the FTC staff requested that the audits also be submitted in electronic format so they can be posted on the FTC web site. This new procedure will likely reduce the number of hours and costs of copying the audits, because the IDSMs will be able to refer consumers to the FTC web site, where they can download and/or print out the information needed. Because this process has only recently begun (and because not all consumers have access to a computer), it is too soon to estimate the decrease in hours and costs that may result from the public posting of the audits.

William E. Kovacic,

General Counsel.

[FR Doc. 04–22931 Filed 10–12–04; 8:45 am]

BILLING CODE 6750–01–P

[9] This estimate incorporates any additional time needed to reproduce copies of audit reports for consumers upon their request. Inasmuch as consumers request such copies in only a minority of cases, this estimate is likely an overstatement.

[10] The industry source did not break down this estimate by cost item. Staff conservatively included the entire $100,000 in its estimate of capital and other non-labor costs, even though some of this burden is likely already accounted for as labor costs.

FEDERAL TRADE COMMISSION

Granting of Request For Early Terminiation of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the**Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency

intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—09/14/2004			
20041328	Seiko Epson Corporation	Sanyo Epson Imaging Devices Corporation.	Sanyo Epson Imaging Devices Corporation.
20041335	J.P. Morgan Chase & Co.	TruSecure Corporation	TruSecure Corporation.
20041342	Ricoh Company, Ltd.	Hitachi, Ltd.	Hitachi Printing Solutions, Ltd.
20041353	Trevor Lloyd	Robert (and wife, Elsa) Eustace	Applied Systems, Inc.
20041354	Cox Enterprises, Inc.	Cox Enterprises, Inc.	TCA Cable Partners.
20041357	Kenneth R. Thomson	KnowledgeNet.com, Inc.	KnowledgeNet.com, Inc.
20041369	Cisco Systems, Inc.	P-Cube, Inc.	P-Cube, Inc.
20041371	J.W. Childs Equity Partners III, L.P.	Fitness Quest, Inc.	Fitness Quest, Inc.
20041376	CCG Investments BVI, L.P.	Richard T. Lilly	Lilly Software Associates, Inc.
20041377	UICI	HealthMarket Inc.	HealthMarket Administrative Services, Inc.
20041378	Lincoln Insurance Group, Inc.	Security Mutual Life Nebraska Holding Company.	SML Holdings Co.
TRANSACTIONS GRANTED EARLY TERMINATION—09/15/2004			
20041364	Collins Stewart Tullett plc	Arthur Hughes	FPG Holdings Limited
TRANSACTIONS GRANTED EARLY TERMINATION—09/16/2004			
20041367	The Hearst Trust	White Directory Publishers, Inc.	White Directory of Carolina, Inc., White Directory of Florida, Inc., White Directory of New England, Inc., White Directory of Pennsylvania, Inc., White Directory of Virginia, LLC, White Directory Publishers, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—09/17/2004			
20040710	General Electric Company	InVision Technologies, Inc.	InVision Technologies, Inc.
20041356	GC Power Acquisition LLC	Centerpoint Energy, Inc.	Texas Genco Holdings, Inc., Texas Genco II LP, Texas Genco Services, LP
20041382	International Power plc	Edison International	EME del Caribe Holding GmbH
20041383	MGI Pharma, Inc.	SuperGen, Inc.	SuperGen, Inc.
20041392	Austin Ventures VIII, L.P.	Mr. Russell B. Inserra	Orion Marine Group Holdings, Inc.
20041393	George David	United Technologies Corporation	United Technologies Corporation
20041400	QUALCOMM Incorporated	Iridigm Display Corporation	Iridigm Display Corporation.
TRANSACTIONS GRANTED EARLY TERMINATION—09/20/2004			
20041314	ConMed Corporation	C.R. Bard, Inc.	C.R. Bard, Inc.
20041370	UBS AG	The Charles Schwab Corporation	Schwab Capital Markets L.P., SoundView Technology Group, Inc.

Trans #	Acquiring	Acquired	Entities
20041396	Sumitomo Corporation	PG&E Corporation	Hermiston Generating Company, L.P., Airport Ale House and Raw Bar, Inc., Alafaya Ale House and Raw Bar, Ltd., Ale House Management, Inc., Alpharetta Ale House and Raw Bar, Inc., Altamonte Ale House and Raw Bar, Inc., Boca Ale House and Raw Bar, Inc., Boynton Ale House, Inc., Bradenton Ale House and Raw Bar, Inc., Brandon Ale House and Raw Bar, Ltd., Buena Vista Ale House Raw Bar, Inc., Coral Springs Ale House and Raw Bar, Ltd., Davie Ale House and Raw Bar, Ltd., Daytona Ale House and Raw Bar, Ltd., Doral Ale House and Raw Bar, Inc., Florida Mall Ale House and Raw Bar, Inc., Fort Lauderale Ale House and Raw Bar, Inc., Ft Myers Ale House and Raw Bar Eas, Inc., Gardens Ale House and Raw Bar, Inc., Hiawassee Ale House and Raw Bar, Inc., Hollywood Ale House and Raw Bar, Inc., Jupiter Ale House, Inc., Kendall Ale House and Raw Bar, Inc., Kirkman Road Ale House and Raw Bar, Inc., Lakeland Ale House and Raw Bar, Inc., Mandarin Ale House and Raw Bar, Inc., North Miami Ale House and Raw Bar, Inc., Ocala Ale House and Raw Bar, Inc., Orlando Ale House and Raw Bar, Inc., Palm Harbor Ale House and Raw Bar, Inc., Pembroke Pines Ale House and Raw Bar, Ltd., Regency Ale House and Raw Bar, Ltd., Sanford Ale House and Raw Bar, Inc., Sarasota Ale House and Raw Bar, Inc., Southside Ale House and Raw Bar, Inc., St. Petersburg Ale House and Raw Bar, Inc., Tampa Ale House and Raw Bar, Inc., UNCC Charlotte Ale House and Raw Bar Limited Partnership.
20041399	SKM Equity Fund III, L.P	John W. Miller.	
TRANSACTIONS GRANTED EARLY TERMINATION—09/21/2004			
20041263	Morton Manus and Iris Manus	WMG Parent Corporation	CPP/Belwin, Inc., International Music Publications Limited, Warner Bros, Publications U.S. Inc.
20041391	SCF–IV, L.P.	Mr. Harold Hamm	Hamm Co., Rental Tools, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—09/23/2004			
20041394	ArcLight Energy Partners Fund II, L.P..	General Electric Company	TIFD III–C, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—09/24/2004			
20041333	Kenneth R. Thomson	Educational Testing Service	iLearning, Inc., The Chauncey Group Holdings Inc.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative or Renee Hallman, Case Management Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580 (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 04–22930 Filed 10–12–04; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Renewal of Computer Matching Program (Match No. 2001–06)

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of renewal of computer matching program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice announces the renewal of a CMP that CMS plans to conduct with the State of California Department of Health Services (DHS). We have provided background information about the proposed matching program in the ''Supplementary Information'' section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed matching program, CMS invites comments on all portions of this notice. See ''Effective Dates'' section below for comment period.

DATES: CMS filed a report of the CMP with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on October 1, 2004. We will not disclose any information under a matching agreement until 40 days after filing a report to OMB and Congress or 30 days after publication. We may defer implementation of this matching program if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: Director, Division of Privacy Compliance Data Development, Enterprise Databases Group, Office of Information Services, CMS, Mail stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Douglass Brown, Health Insurance Specialist, Division of Methods and Strategy, Program Integrity Group, Office of Financial Management, CMS, Mail-stop C3–02–16, 7500 Security Boulevard, Baltimore Maryland 21244–1850. The telephone number is (410) 786–0028 and e-mail is *dbrown4@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the Matching Program

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. § 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 100–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;

2. Obtain the Data Integrity Board approval of the match agreements;

3. Furnish detailed reports about matching programs to Congress and OMB;

4. Notify applicants and beneficiaries that the records are subject to matching; and,

5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. CMS Computer Matches Subject to the Privacy Act

CMS has taken action to ensure that all CMPs that this Agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Dated: October 1, 2004.

Mark B. McClellan,

Administrator.

Computer Match No. 2001–06

NAME:

''Computer Matching Agreement Between the Centers for Medicare & Medicaid Services (CMS) and the State of California Department of Health Services (DHS) for Disclosure of Medicare and Medicaid Information''.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

PARTICIPATING AGENCIES:

The Centers for Medicare & Medicaid Services, and State of California Department of Health Services.

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

This Computer Matching Program (CMP) is executed to comply with the Privacy Act of 1974 (Title 5 United States Code (U.S.C.) section 552a), as amended, the Office of Management and Budget (OMB) Circular A–130, titled ''Management of Federal Information Resources'' at 65 FR 77677 (December 12, 2000), and OMB guidelines pertaining to computer matching (54 FR 25818, June 19, 1989).

Authority for this matching program is given under the matching provisions of §§ 1816, 1842, and 1874(b) of the Social Security Act (42 U.S.C. 1395h, 1395u, and 1395kk(b)). Authority for DHS to participate in this computer-matching program is given under the provisions of §§ 10740, 10748, 10750, 14000, and 14000.3. 14000.4, 14005, 14005.4, 14100.1, 14200 of the California Welfare and Institutions Code, and 42 CFR 431.300 through 431.307. DHS is charged with administration of the Medicaid program in California and is the single state agency for such purpose. DHS may act as an agent or representative of the Federal government for any purpose in furtherance of DHS's functions or administration of the Federal funds granted to the state. In California, the Medi-Cal Act provides qualifying individuals with health care and related remedial or preventive services, including both Medicaid services and services authorized under state law that are not provided under Federal law. The program to provide all such services is known as the Medi-Cal program.

PURPOSE(S) OF THE MATCHING PROGRAM:

The purpose of this Agreement is to establish the conditions, safeguards, and procedures under which CMS will conduct a computer matching program

with the State of California, DHS, and under which DHS will participate in a computer matching program with CMS, to study claims, billing, and eligibility information to detect suspected instances of Medicare and Medicaid fraud and abuse (F&A) in the State of California. CMS and DHS will provide Electronic Data Systems (EDS), a CMS contractor (hereinafter referred to as the ''Custodian''), with Medicare and Medicaid records pertaining to eligibility, claims, and billing which the Custodian will match in order to merge the information into a single database. Utilizing fraud detection software, the information will then be used to identify patterns of aberrant practices requiring further investigation. The following are examples of the type of aberrant practices that may constitute F&A by practitioners, providers, and suppliers in the State of California expected to be identified in this matching program: (1) Billing for provision of more than 24 hours of services in one day; (2) providing treatment and services in ways more statistically significant than similar practitioner groups; and (3) up-coding and billing for services more expensive than those actually performed.

CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCH:

This CMP will enhance the ability of CMS and DHS to detect F&A by matching claims data, eligibility, and practitioner, provider, and supplier enrollment records of Medicare beneficiaries, practitioners, providers, and suppliers in the State of California against records of Medicaid/Medi-Cal beneficiaries, practitioners, providers, and suppliers in the State of California.

DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM:

Systems of Records (SOR).

The data for CMS are maintained in the following SOR: National Claims History (NCH), System No. 09–70–0005 was most recently published in the **Federal Register**, at 59 FR 19181 (April 22, 1994). NCH contains records needed to facilitate obtaining Medicare utilization review data that can be used to study the operation and effectiveness of the Medicare program. Matched data will be released to DHS pursuant to the routine use as set forth in the system notice.

Enrollment Database, System No. 09–70–0502 (formerly known as the Health Insurance Master Record) published at 55 FR 37547 (September 12, 1990). Matched data will be released to DHS pursuant to the routine use set forth in the system notice.

Medicare Supplier Identification File, System No. 09–70–0530 was most recently published in the **Federal Register**, at 57 FR 23420 (June 3, 1992). Matched data will be released to DHS pursuant to the routine use as set forth in the system notice.

Unique Physician/Provider Identification Number (formerly known as the Medicare Physician Identification and Eligibility System), System No. 09–70–0525, was most recently published in the **Federal Register** at 53 FR 50584 (Dec 16, 1988). Matched data will be released to DHS pursuant to the routine use as set forth in the system notice.

Carrier Medicare Claims Record, System No. 09–70–0501 published in the **Federal Register** at 59 FR 37243 (July 21, 1994). Matched data will be released to DHS pursuant to the routine use as set forth in the system notice.

The data for DHS are maintained in the following data files: ''Medi-Cal RFF035 File Paid Claims''; ''Medi-Cal Combined Provider Master File''; and ''Medi-Cal Eligibility Record File.''

INCLUSIVE DATES OF THE MATCH:

The CMP shall become effective no sooner than 40 days after the report of the Matching Program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, which ever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 04–22902 Filed 10–12–04; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following Federal Committee meeting.

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 9 a.m.–5:45 p.m., October 27, 2004; 8 a.m.–4:35 p.m., October 28, 2004.

Place: Atlanta Marriott Century Center, 2000 Century Boulevard, NE., Atlanta, Georgia 30345–3377.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters To Be Discussed: The agenda will include discussions on influenza which includes a VFC vote on use of Live Attenuated Influenza Vaccine; proposed recommendations for use of quadrivalent meningococcal conjugate vaccine (MCV4); recommendations for use of Hepatitis A Vaccine; an update on implementation of strategy to eliminate Hepatitis B virus transmission; varicella epidemiology and future program goals, including consideration of 2 dose varicella vaccination; proposal for an evidenced based format for ACIP recommendations; consideration of revisions for the Harmonized Childhood Immunization schedule; revisions to the 2002 General Recommendations; discussion of smallpox vaccine safety; and working group and Departmental updates.

Agenda items are subject to change as priorities dictate.

Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

For Further Information Contact: Demetria Gardner, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE, (E–61), Atlanta, Georgia 30333, telephone 404/639–8096, fax 404/639–8616.

The Acting Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities for both the CDC and ATSDR.

Dated: October 7, 2004.

B. Kathy Skipper,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–22985 Filed 10–8–04; 9:19 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0049]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Control of Communicable Diseases; Restrictions on African Rodents, Prairie Dogs, and Certain Other Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Control of Communicable Diseases; Restrictions on African Rodents, Prairie Dogs, and Certain Other Animals'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 9, 2004 (69 FR 41501), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0519. The approval expires on September 30, 2007. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: October 5, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–22899 Filed 10–12–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: September 2004

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of September 2004, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusions is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.*, a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject name	Address	Effective date
Program-Related Convictions		
ABERBACH, STEVEN	TRENTON, NJ	10/20/2004
ANDREADIS, BARBARA	BERKELEY SPRINGS, WV	10/20/2004
AUGUSTINE MEDICAL, INC	EDEN PRAIRIE, MN	5/6/2004
AUSTIN, GAIL	SALEM, OR	10/20/2004
BELFREY, THURLEE	MAPLE GROVE, MN	10/20/2004
BELLAMY, BERNICE	LUMBERTON, NJ	10/20/2004
BELLAMY, HARVEY	TRENTON, NJ	10/20/2004
BENSON, BRYON	DENVER, CO	10/20/2004
BESSETTE, H	BALLSTON LAKE, NY	10/20/2004
BROWN, EARNEST	DEERFIELD, WI	10/20/2004
CORRAI, RUSSELL	ELK PARK, NC	10/20/2004
DELGADO, MANOLO	HIALEAH, FL	10/20/2004
DIXON-PYETT, ANTOINETTE	COLUMBUS, OH	10/20/2004
DOCTOR, JULIA	ALEXANDRIA, VA	10/20/2004
DUENAS, ADELIODA	FRESNO, CA	10/20/2004
DUENAS, FERALINA	FRESNO, CA	10/20/2004
EDUKERE, GODWIN	ANTHONY, NM	10/20/2004
FOX, BARBARA	WHITE HORSE BEACH, MA	10/20/2004
FRANZINO, ROBERT	GREENSBURG, PA	10/20/2004
FRENCH, CONSTANT	LITTLETON, CO	10/20/2004
HAMILTON, CARRIE	FT WORTH, TX	10/20/2004
JEFFERSON, SHANNON	UNION GROVE, WI	10/20/2004
JOHANNESSEN, PAULA	COLUMBUS, OH	10/20/2004
LAMBERT, CHRISTINA	WHEELERSBURG, OH	10/20/2004
LEVIN, JOHN	MINERSVILLE, PA	10/20/2004
LOWE, JAMES	TULSA, OK	10/20/2004
LUNDQUIST, KARL	FLORENCE, CO	10/20/2004
MARTIN, STEPHEN	SPRINGERVILLE, AZ	10/22/2004
MILES, RICHARD	BEAUMONT, TX	10/20/2004
MILLS, DEBORAH	GROVE CITY, OH	10/20/2004
MODI, VINODCHANDRA	BEAVER, WV	10/20/2004
NGANG, ITA	SILVER SPRING, MD	10/20/2004
POKH, ROSSIA	BROOKLYN, NY	10/20/2004
PROCTOR, DONALD	HOUSTON, TX	10/20/2004
PUJOL, ALEJANDRO	MIAMI, FL	10/20/2004
RAUF, ABDUL	OGDENSBURG, NY	10/20/2004
RICE, LEISA	ELMENDORF, TX	10/20/2004
RICHARDSON, JACQUELINE	FT WORTH, TX	10/20/2004
RICHARDSON, TROY	LEANDER, TX	10/20/2004
ROMERO, BERNADETTE	SANTA FE, NM	10/20/2004
ROSARIO, DEBRA	FINDLAY, OH	10/20/2004
ROSS, ADAM	ENCINO, CA	10/20/2004

Subject name	Address	Effective date
SATYSHUR, ELAINE	BRYAN, TX	10/20/2004
SHANNON, MICHAEL	TROY, NY	10/20/2004
SIGAL, DAVID	WOODLAND HILLS, CA	10/20/2004
SIGAL, MILA	CHOWCHILLA, CA	10/20/2004
SLATER, GERALD	GLENWOOD SPRINGS, CO	10/20/2004
SMERECK, KAREN	CANTON, MI	10/20/2004
TALERO, WILLIAM	JUPITER, FL	10/20/2004
THE FAMILY PRACTICE CLINIC	KILLEN, TX	10/20/2004
VALER, ENRIQUE	DOWNEY, CA	10/20/2004
WEINER, MARIANNA	BROOKLYN, NY	10/20/2004
WHITE, PUANANI	SAINT MICHAELS, MD	10/20/2004
WHITE, RONNIE	MORGANTOWN, WV	10/20/2004
Felony Conviction for Health Care Fraud		
BLANK, CHRISTOPHER	GLENWOOD SPRINGS, CO	10/20/2004
BROWNSTEIN, STEVEN	BALTIMORE, MD	10/20/2004
CORTEZ, CHARLIE	THE WOODLANDS, TX	10/20/2004
DECAVITCH, MARTHA	MAUMEE, OH	10/20/2004
DIVENS, CATHERINE	YOUNGSTOWN, OH	10/20/2004
FELAN, CHRISTOPHER	RICHMOND, TX	10/20/2004
HAYDEN, JENNIFER	UNIONTOWN, OH	10/20/2004
KOONTZ, DANIEL	GLOBE, AZ	10/20/2004
MARCUSEN, JOLYNN	CLINTON, UT	10/20/2004
MICHAELS, SAUNDRA	AMARILLO, TX	10/20/2004
RAVIS, GARY	LEAWOOD, KS	10/20/2004
RODGERS, SHERI	ESTES PARK, CO	10/20/2004
SMALLEGAN, STACEY	WEED, CA	10/20/2004
STEFONETTI, CHARLES	SCRANTON, PA	10/20/2004
THOMPSON, JAMES	ST LOUIS, MO	10/20/2004
TKACH, IVAN	PHILADELPHIA, PA	10/20/2004
TYLER, HEATHER	AUGUSTA, ME	10/20/2004
WEST, KEITH	WYANDOTTE, MI	10/20/2004
WHITSON, CATHY	VINCENNES, IN	10/20/2004
WILLIAMSON, JUDY	DENVER, CO	10/20/2004
Felony Control Substance Conviction		
BEAN, KIMBERLY	LONGMONT, CO	10/20/2004
BOATRIGHT, SUSAN	TAFT, OK	10/20/2004
BOYD, LORI	TULSA, OK	10/20/2004
BROWN, MARVIN	AVENTURA, FL	10/20/2004
CLARK, CORDELL	DALLAS, TX	10/20/2004
COUKOS, LUKE	HOPEWELL, VA	10/20/2004
FINCH, SCOTT	SHASTA LAKE, CA	10/20/2004
GARDNER, RODNEY	GARLAND, UT	10/20/2004
HARRISON, JENNY	SPANISH FORK, UT	10/20/2004
KUNCL, CAROL	STEAMBOAT SPRINGS, CO	10/20/2004
LONGARINI, STACEY	READING, PA	10/20/2004
PATTERSON, LISA	ELECTRA, TX	10/20/2004
QUAMMEN, ANETTE	OTTO, WY	10/20/2004
TINDER, GAIL	AURORA, CO	10/20/2004
WAINSCOTT, MICHELLE	OKLAHOMA CITY, OK	10/20/2004
WOOLEY, CATHERINE	BEAVER FALLS, PA	10/20/2004
Patient Abuse/Neglect Convictions		
BALES, ROBERTA	MEDFORD, OK	10/20/2004
BEVERLY, JOSEPH	CLARKSBURG, WV	10/20/2004
BOEPPLE, JIMMIE	COVINGTON, OK	10/20/2004
CAMARILLO, ANNA	SANGER, CA	10/20/2004
CHINETTI, STEPHEN	SALEM, NH	10/20/2004
DABROWSKI, CHRISTINE	GENEVA, NY	10/20/2004
DAVIS, JANETTE	MOUNTAIN VIEW, OK	10/20/2004
DULUDE, SHARON	RICHMOND, VT	10/20/2004
GOSS, DAVID	SHREVEPORT, LA	10/20/2004
HAINES, MARGARET	JOHNSTOWN, CO	10/20/2004
HOLT, VERA	ALEXANDRIA, LA	10/20/2004
JONES-WALKER, LINDA	TUCSON, AZ	10/20/2004
KNIGHT, JESSIE	BALTIMORE, MD	10/20/2004
MACABIO, JERRY	WAHIAWA, HI	10/20/2004
MARTIN, RAYMOND	LUBBOCK, TX	10/20/2004
MURPHY, MELONIE	LAWTON, OK	10/20/2004
NGUYEN, VINH	CANON CITY, CO	10/20/2004

Subject name	Address	Effective date
SHUMWAY-HICKS, ELECTA	ALBANY, NY	10/20/2004
STIEFER, STEVEN	MIDWAY, WV	10/20/2004
WILLIS, KIM	BEATTYVILLE, KY	10/20/2004
WOODARD, DALE	BALTIMORE, MD	10/20/2004
Conviction for Health Care Fraud		
DORR, ANGELA	SEASPORT, ME	10/20/2004
MCKENZIE, MELODY	LAWRENCE, KS	10/20/2004
MEMEL, STEPHANIE	FAIRFIELD CENTER, ME	10/20/2004
License Revocation/Suspension/Surrendered		
ABSHER, DONNA	KINGSPORT, TN	10/20/2004
ABUELKHAIR, AYDA	LOS ANGELES, CA	10/20/2004
ADAMS, MICHAEL	LAS VEGAS, NV	10/20/2004
ALBAT, DAVID	SPRING HILL, FL	10/20/2004
ALVIS, SHERYL	SHELBYVILLE, IN	10/20/2004
BACAYO, LUIS	STREATOR, IL	10/20/2004
BALL, MARIVIC	FREDERICKSBURG, VA	10/20/2004
BARANCZYK, TERRI	LANCASTER, CA	10/20/2004
BARDASH, JOHN	COLUMBIA, MO	10/20/2004
BARRIOS, KATHY	WEATHERFORD, OK	10/20/2004
BEAVER, JANE	PORTAGE, WI	10/20/2004
BECERRA, DIANA	LYTLE, TX	10/20/2004
BEDIC, OLIVERA	LIC, NY	10/20/2004
BERSHATSKY, DEBORAH	NEW YORK, NY	10/20/2004
BESSETTE, NICHOLE	BRANDENTON, FL	10/20/2004
BIGGS, DEANA	RIVERSIDE, CA	10/20/2004
BLACK, HOWARD	LONG BEACH, CA	10/20/2004
BLAKE, CYNTHIA	LAS VEGAS, NV	10/20/2004
BLODGETT, MICHAEL	FT LAUDERDALE, FL	10/20/2004
BROWN, ALDENA	PARK CITY, UT	10/20/2004
BRYAN, HUGH	CLIFTON PARK, NY	10/20/2004
BRYAN, JOYCE	FRAZER, PA	10/20/2004
BUSKEY, SARA	NEWPORT, VT	10/20/2004
BUTSCHLE, KELLY	MOON TOWNSHIP, PA	10/20/2004
BYRNE, PATRICIA	BOMOSEEN, VT	10/20/2004
CABEEN, BETTY W	FRANKFORT, IL	10/20/2004
CAPUANO, NANCY	FORT WORTH, TX	10/20/2004
CARPER, JENNIFER	BENBROOK, TX	10/20/2004
CARROLL, SHANNON	WEST WARWICK, RI	10/20/2004
CASAVANT, GERALD	HOOSICK, NY	10/20/2004
CATLIN-LONG, MARSHA	OAK RIDGE, TN	10/20/2004
CLAY, SANDRA	HUMMELSTOWN, PA	10/20/2004
CLEGGETT-LUCAS, JACQUELINE	NEW ORLEANS, LA	10/20/2004
COLON, GREGORIA	MODESTO, CA	10/20/2004
COLWELL, JAMES	PITTSBURGH, PA	10/20/2004
COOPER, MARY	GORHAM, ME	10/20/2004
COTE, JILL	WATERBORO, ME	10/20/2004
CREASY, SUZAN	THAXTON, VA	10/20/2004
CRONK, JOHN	HEATH, TX	10/20/2004
CROSBY, LAURA	ADAMS, MA	10/20/2004
CROSSLEY, DEBORAH	STOWE, VT	10/20/2004
CULBREATH, SONG	AURORA, CO	10/20/2004
DARTEZ, SUZANNA	ARNAUDVILLE, LA	10/20/2004
DAVIDSON, MILDRED	CHESAPEAKE, VA	10/20/2004
DAVIS, VIRGILIA	SANTA CLARA, CA	10/20/2004
DAYTON, NANCY	CHANDLER, AZ	10/20/2004
DENSON, YOLANDA	PROVIDENCE, RI	10/20/2004
DEROUEN, JASON	MONROE, LA	10/20/2004
DESTRY, DIANA	BILOXI, MS	10/20/2004
DIEL, JONATHAN	AZUSA, CA	10/20/2004
DIETZ, STERLING	RICHMOND, TX	10/20/2004
DOLEZAL, BRENDA	STERLING, CO	10/20/2004
DOTSON, JENNIFER	LAKE JACKSON, TX	10/20/2004
DOYLE, JUDITH	MORRISTOWN, NJ	10/20/2004
DRAKE, DARREN	CHICAGO, IL	10/20/2004
DUTTON, GLENN	RIVERTON, UT	10/20/2004
ELLIS, MICHELLE	BLOOMINGTON, IN	10/20/2004
ELLSWORTH, STEVEN	FACTORYVILLE, PA	10/20/2004
ELSAYID, HUMDY	ROWLAND HEIGHTS, CA	10/20/2004
ENGLAND, RENEE	PHILLIPPI, WV	10/20/2004
FONDAKOWSKI, DORENE	EAST ARLINGTON, VT	10/20/2004

Subject name	Address	Effective date
FORSLEY-PLATA, ELIZABETH	PORTLAND, ME	10/20/2004
FORTIN, JACQUELINE	BENTON, AR	10/20/2004
FOSTER, JANIS	JONESBORO, AR	10/20/2004
FRECKLETON, DIANA	BRATTLEBORO, VT	10/20/2004
GALLAWA, HEATHER	SACRAMENTO, CA	10/20/2004
GARDINER, ED	OGDEN, UT	10/20/2004
GAZAILLE, DAVID	EDGARTOWN, MA	10/20/2004
GEARY, DOLLIE	GEORGETOWN, IN	10/20/2004
GILL, SHARON	ENUMCLAW, WA	10/20/2004
GILLIS, SARA	FRAMINGHAM, MA	10/20/2004
GIVENS, MARY	NORRIS CITY, IL	10/20/2004
GOMEZ, MARTHA	LAKEWOOD, CA	10/20/2004
GONZALEZ, AMPARO	GONZALES, CA	10/20/2004
GOODIN, BRIAN	NORMAL, IL	10/20/2004
GORDON, CURTIS	TEMPLE, TX	10/20/2004
GORSKI, JAMES	LINDENHURST, IL	10/20/2004
GOSCH, DEBORA	FULTON, NY	10/20/2004
GUBATON, LEA	MORENO VALLEY, CA	10/20/2004
GUILBEAU, DANA	SIMMESPORT, LA	10/20/2004
HAIDEN, JOSEPH	NEWBURGH, ME	10/20/2004
HAIRSTON, PAMELA	BOSSIER CITY, LA	10/20/2004
HANSEN, SAMANTHA	MANTI, UT	10/20/2004
HARRIS, JENNIFER	LITTLETON, CO	10/20/2004
HART, WILLIAM	KENNER, LA	10/20/2004
HARVEY, SHARON	METHUEN, MA	10/20/2004
HATHAWAY, ADRIENNE	PITTSFORD, VT	10/20/2004
HEATH, WILLIAM	NEWPORT NEWS, VA	10/20/2004
HENNE, LISA	OLNEY, IL	10/20/2004
HICE, PHILIP	WINTHROP HARBOR, IL	10/20/2004
HOBBS, JANET	WINCHESTER, KY	10/20/2004
HORNE, CARRIE	VAN BUREN, AR	10/20/2004
HOUCK, HENRY	CLINTON, NY	10/20/2004
HOWARD, PAMELA	RUTLAND, VT	10/20/2004
HOWLEY, KATHLEEN	BENNINGTON, VT	10/20/2004
HUCH, STEVEN	SAN DIEGO, CA	10/20/2004
HUNTSMAN, KEITH	SALT LAKE CITY, UT	10/20/2004
IRVING, DECLAN	CHESAPEAKE, VA	10/20/2004
JASKIEWICZ, RICHARD	TUCSON, AZ	10/20/2004
JAVED, TAHIR	OMAHA, NE	10/20/2004
JEFFRIES, JILL	ARVADA, CO	10/20/2004
JOHNS, KENNETH	MESA, AZ	10/20/2004
JOHNSON, DEBERA	JONESBORO, GA	10/20/2004
JOHNSON, ERIC	DAYTON, ME	10/20/2004
JOHNSON, PAMELA	SAN JOSE, CA	10/20/2004
JOLIVETTE, JOSEPH	WICHITA, KS	10/20/2004
JONES, CAROL	MESA, AZ	10/20/2004
JORDAN, SHEILA	HENDERSON, NV	10/20/2004
JULIANO, CAROLINA	VILLA PARK, IL	10/20/2004
KENNEDY, ELIZABETH	SPRINGFIELD, MA	10/20/2004
KIESSLING, LINDA	W ROXBURY, MA	10/20/2004
KING, DAVID	CALUMET CITY, IL	10/20/2004
KING, HEIDI	E ARLINGTON, VT	10/20/2004
KRAFT, GEORGE	NEW ALBANY, IN	10/20/2004
LANDOLT, ETHEL	SHUBENACKIE, NS	10/20/2004
LAPLANT, STEVEN	EAST MIDDLEBURY, VT	10/20/2004
LENZY, ALICE	CANTON, OH	10/20/2004
LEONARD, GREGORY	SPRINGFIELD, MO	10/20/2004
LOVATO, BRENDA	OKLAHOMA CITY, OK	10/20/2004
LOVELESS, LAUREN	LITTLE ROCK, AR	10/20/2004
LUCKETT, ALTON	SAN ANTONIO, TX	10/20/2004
LUNDY, SUSAN	COLCHESTER, VT	10/20/2004
LYNCH, JOHN	IONE, CA	10/20/2004
MACABABBAD, IMELDA	FONTANA, CA	10/20/2004
MALDONADO, LIZABETH	OXNARD, CA	10/20/2004
MARSHALL, TAMMY	VICTORVILLE, CA	10/20/2004
MARTZ, CHRISTINE	SCOTTSDALE, AZ	10/20/2004
MATHIS, JOHN	ARLINGTON, TX	10/20/2004
MCCANN, JAMES	SPRING, TX	10/20/2004
MCCOY, CHARLES	PITTSBURGH, PA	10/20/2004
MCDONALD, NANCY	BOMOSEEN, VT	10/20/2004
MCGEE, MAURICE	INDIANAPOLIS, IN	10/20/2004
MCGINNIS, PRUDENCE	LEWISVILLE, TX	10/20/2004
MCGRAW, DUANE	ROUNDLAKE, NY	10/20/2004
MCQUEARY, JACQUELINE	COLUMBUS, IN	10/20/2004

Subject name	Address	Effective date
MEASE, VICKY	CHATHAM, VA	10/20/2004
MENDONCA, DOMINGAS	N PROVIDENCE, RI	10/20/2004
MENDOZA, CATALINA	RIVERSIDE, CA	10/20/2004
MEYER, AUDRA	BOISE, ID	10/20/2004
MIANO, ELIZABETH	LA PLACE, LA	10/20/2004
MILANA, MATHELMA	SAN DIEGO, CA	10/20/2004
MILLER, DAYNA	FLORENCE, TX	10/20/2004
MILLER, GEORGE	PHOENIX, AZ	10/20/2004
MILLER, JON	DECATUR, IL	10/20/2004
MOLMEN, LAYNE	PHILADELPHIA, PA	10/20/2004
MOPPIN, SHANETA	PHOENIX, AZ	10/20/2004
MORMAN, PEGGY	OTTAWA, OH	10/20/2004
MORRIS, RICKY	BRAINTREE, VT	10/20/2004
MOULTON, RONALD	BOISE, ID	10/20/2004
MUELLER, ANNEMARIE	ALEXANDRIA, VA	10/20/2004
MUNN, NATHAN	HELENA, MT	10/20/2004
MURPHY, JAMES	HENDERSON, NV	10/20/2004
MURPHY, MARGARET	MIDDLEBORO, MA	10/20/2004
NAGEL, KIM	LITTLETON, CO	10/20/2004
NAGLE, MICHAEL	NORTHFIELD FALLS, VT	10/20/2004
NEALY, THERON	DENVER, CO	10/20/2004
NEGRON, MARIA	NORTH CHICAGO, IL	10/20/2004
NEPOMUCENO, CRISTINA	SAN DIEGO, CA	10/20/2004
NERCESSIAN, MARK	HAMBURG, NY	10/20/2004
OLSEN, ANN	SPRING CREEK, NV	10/20/2004
PAREDES, LIZETTE	AZUSA, CA	10/20/2004
PATENAUDE, DEBRA	CROWN POINT, NY	10/20/2004
PATTERSON, MARY	SNOOK, TX	10/20/2004
PERSHALL, LYDIA	RENO, NV	10/20/2004
PETERS, DARA	RENO, NV	10/20/2004
PETSCH, REGINA	ERIE, PA	10/20/2004
PIPER, HEATHER	WHITING, VT	10/20/2004
POINTER, ANTHONY	FORT COLLINS, CO	10/20/2004
PRESTON, DEBRA	MACON, GA	10/20/2004
PROUTY, SHAUN	NORTH POWNAL, VT	10/20/2004
RAMIREZ, MARGARET	ANTIOCH, CA	10/20/2004
RAMSEY, JAMES	LAGUNA HILLS, CA	10/20/2004
RANDALL, TERESA	WILLS POINT, TX	10/20/2004
RAPHLAH, RAPHAEL	INDIANAPOLIS, IN	10/20/2004
RATANAPROEK, CHANTIMA	CHESTERTON, IN	10/20/2004
RAWLINSON, LISA	WINNFIELD, LA	10/20/2004
RENNER, HELEN	CONVERSE, TX	10/20/2004
RICHARDSON, PAMELA	MARINA, CA	10/20/2004
RIDENOUR, DIANA	PITTSFIELD, MA	10/20/2004
RIDGEWAY, DEANA	PADUCAH, KY	10/20/2004
RITZ, SUSAN	LITTLETON, CO	10/20/2004
ROBERTSON, APRIL	GROVE CITY, PA	10/20/2004
ROGERS, SKIP	UPPER DARBY, PA	10/20/2004
ROLAND-STUDENY, BETH	MANASSAS PARK, VA	10/20/2004
ROSOV, HOWARD	ARNOLD, MD	10/20/2004
ROSS, SUZANNE	NEWPORT NEWS, VA	10/20/2004
ROUND, ANDREA	CATHEDRAL CITY, CA	10/20/2004
RUSSO, DOUGLAS	ARVADA, CO	10/20/2004
SAINT-ERNE, PHILIP	KENAI, AK	10/20/2004
SAMILA, FRANK	AURORA, CO	10/20/2004
SAWTELLE, PAULA	LUBEC, ME	10/20/2004
SAYLES, ARNETTA	RICHMOND, VA	10/20/2004
SCHMIDT, BOYD	DELTA, CO	10/20/2004
SCHROEDER, JILL	STATELINE, NV	10/20/2004
SCOTT, CAROLYN	LANCASTER, CA	10/20/2004
SELDON, PELMA	EL CERRITO, CA	10/20/2004
SHELLEY, COLLEEN	COSTA MESA, CA	10/20/2004
SHOCKEY, SHERI	MEMPHIS, TN	10/20/2004
SIMMONS, SHANNON	EVANSVILLE, IN	10/20/2004
SKINNER, KAREN	PHOENIX, AZ	10/20/2004
SMITH-HUNT, TAMMY	TAMPA, FL	10/20/2004
SMITH-VANIZ, ALLISON	LA JOLLA, CA	10/20/2004
SNYDER, BETH	BLASDELL, NY	10/20/2004
SODDY, CHRISTINA	SALIDA, CO	10/20/2004
SOKOLOWSKI, TARA	TUNKHANNOCK, PA	10/20/2004
SOLIS, MICHAEL	LAS VEGAS, NV	10/20/2004
SOLLNERSAWYER, LISA	OLD ORCHARD BEACH, ME	10/20/2004
SOMMER, DOUGLAS	EVERETT, WA	10/20/2004
SOWARD, LAUREN	LANCASTER, CA	10/20/2004

Subject name	Address	Effective date
SPARKMAN, DAVID	OLYMPIA, WA	10/20/2004
SPRONG, KATHERINE	SCOTTSDALE, AZ	10/20/2004
STARCHER, VONNIE	WESTMINISTER, CO	10/20/2004
STEELE, SANDRA	OVERLAND PARK, KS	10/20/2004
SUSCA, LORA	HENDERSON, NV	10/20/2004
THOMPSON, RICHARD	LAS VEGAS, NV	10/20/2004
THOMSEN, PHILLIP	MESA, AZ	10/20/2004
THORUM, TROY	CYPRESS, TX	10/20/2004
TILLER, BONNIE	TAMPA, FL	10/20/2004
TIMMS, DONNA	SACRAMENTO, CA	10/20/2004
TORRANCE, MELISSA	WEST NEWTOWN, PA	10/20/2004
TUCKER, KATHERINE	PRESCOTT, AZ	10/20/2004
TURNER, ANDREW	WATERBURY CENTER, VT	10/20/2004
TUTTLE, EARL	HUNTSVILLE, TX	10/20/2004
ULANSKAS, MARIA	HEDNERSON, NV	10/20/2004
VIVEKAPHIRAT, VISUIT	NORTHFIELD, IL	10/20/2004
WADE, BARBARA	INDIANAPOLIS, IN	10/20/2004
WAGES, JEFF	EL PASO, TX	10/20/2004
WALLER, JEFFREY	SPRINGFIELD, VT	10/20/2004
WEST, ELIZABETH	CROWN POINT, IN	10/20/2004
WHITEROCK, ANNA	EVERGREEN, CO	10/20/2004
WILLIAMS, BARBARA	WATERBURY, VT	10/20/2004
WILLIAMS, GREGORY	CLEVELAND, OH	10/20/2004
WILLIAMSON, JAMES	GREENVILLE, NC	10/20/2004
WILSON, ELIZABETH	ZEPHYR COVE, NV	10/20/2004
WILSON, SHEILA	MAMMOTH, PA	10/20/2004
WINSTON, CLINTON	CONCORD, MA	10/20/2004
YEUTSY, MARY	CEDAR RAPIDS, IA	10/20/2004
ZEDD, ARNOLD	ALEXANDRIA, VA	10/20/2004
ZINGERY, LEWIS	AUSTIN, TX	10/20/2004
Fraud/Kickbacks/Prohibited Acts/Settlement Agreements		
ZHITLOVSKY, GERMAN	LENEXA, KS	12/18/2003
Owned/Controlled by Convicted Entities		
AESTHETIC & VEIN INSTITUTE, INC	LAKEWOOD, CO	10/20/2004
AFFORDABLE CHIROPRACTIC, INC	N OLMSTEAD, OH	10/20/2004
BLAKE G SINCLAIR, D D S, P A	TYLER, TX	10/20/2004
CHRIS-JEN HEALTHCARE, INC	N OLMSTEAD, OH	10/20/2004
COSTA MESA CHIROPRACTIC CLINIC	GLENDALE, CA	10/20/2004
CROSS HEALTHCARE, INC	N OLMSTEAD, OH	10/20/2004
DOVE HEALTHCARE, INC	N OLMSTEAD, OH	10/20/2004
ECB, INC	MILWAUKEE, WI	10/20/2004
GARY L SNYDER, DPM, RVT, P C	LAKEWOOD, CO	10/20/2004
HAYA MEDICAL GROUP	FONTANA, CA	10/20/2004
HEALTH HORIZONS, INC	SPRINGERVILLE, AZ	10/20/2004
KONINGH CHIROPRACTIC	NEW PORT BEACH, CA	10/20/2004
LAMB HEALTHCARE, INC	N OLMSTEAD, OH	10/20/2004
LIFE HEALTHCARE, INC	N OLMSTEAD, OH	10/20/2004
MISSION HEARING AID CENTER	VISTA, CA	10/20/2004
MISSION HEARING AID CENTER	OCEANSIDE, CA	10/20/2004
NORTHCOAST TESTING, INC	N OLMSTEAD, OH	10/20/2004
PEOPLE'S CHIROPRACTIC, INC	N OLMSTEAD, OH	10/20/2004
PHARM-ASSIST, INC	RAIFORD, FL	10/20/2004
PRAISE HEALTHCARE, INC	N OLMSTEAD, OH	10/20/2004
TRINITY TRANSPORT AMBULETTE	POMEROY, OH	10/20/2004
Default on Heal Loan		
AJAYI, ADEYINKA	HEMPSTEAD, NY	10/20/2004
MAKER, JAMES	OKLAHOMA CITY, OK	8/26/2004

Dated: October 1, 2004.

Kathleen Pettit,

Acting Director, Exclusions Staff, Office of Inspector General.

[FR Doc. 04–22904 Filed 10–12–04; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Statement of Organization, Functions, and Delegations of Authority

Part M of the Substance Abuse and Mental Health Services Administration (SAMHSA) Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services at 68 FR 67461–67463, December 2, 2003, is amended to reflect the new functional statement for the Center for Substance Abuse Prevention (MP), Division of State and Community Systems Development (DSCSD). This amendment reflects changes to the Division title and structure within the Center. These structural changes will promote effective and efficient management of all its programs, including its new responsibility for administering the Drug-Free Communities grant program and Coalition Institute. The changes are as follows:

Section M.20, Functions is amended as follows:

(A) The functional statement for the Center for Substance Abuse Prevention (MP), Division of State and Community Systems Development (DSCSD) is replaced with the following:

Division of State and Community Assistance (MPG)

The Division of State and Community Assistance (DSCA) is responsible for carrying out the Center's responsibilities related to development of capacity for States and communities to provide and implement effective substance abuse prevention. As such the Division (1) promotes and establishes comprehensive, long-term State and community alcohol, tobacco, and other drug abuse prevention/intervention policies, programs, practices, and support activities; (2) plans, develops and administers nationwide programs to enhance comprehensive and effective State and community substance abuse prevention systems, drug prevention coalitions and related health promotion systems; (3) administers the prevention set-aside of the Substance Abuse Prevention and Treatment (SAPT) block grant; (4) monitors the application of SAMHSA's Strategic Prevention Framework within States and communities; (5) administers national discretionary grant programs, including the Strategic Prevention Framework State Incentive Grant (SPFSIG); (6) administers the Drug-Free Communities grant program and Coalition Institute; (7) provides technical assistance to States and communities directly, through support contracts, and the Centers for the Application of Prevention Technologies; (8) engages in and promotes interagency collaboration with both the public and private sectors at the Federal, State and local levels; (9) develops and integrates needs assessment and management information system data into State and community prevention systems for the improvement of planning efforts in substance abuse prevention; (10) administers the Synar regulations governing youth access to tobacco products; and (11) develops guidelines for state-of-the-art prevention programs and systems while conducting quality assurance activities, such as the block grant performance, as well as scientific analysis of various programs, proposals and products.

Section M.40, Delegations of Authority. All delegations and redelegations of authority to officers and employees of SAMHSA which were in effect immediately prior to the effective date of this reorganization shall continue in effect pending further redelegations, providing they are consistent with the reorganization.

These organizational changes are effective October 6, 2004.

Charles G. Curie,

Administrator.

[FR Doc. 04–22921 Filed 10–12–04; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Public Meeting of the Airport and Seaport User Fee Advisory Committee

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of meeting.

SUMMARY: This document announces the date, time, and location for a public meeting of the Airport and Seaport User Fee Federal Advisory Committee and the agenda for consideration by the Committee. It also invites submission of written statements. In order to be considered for discussion at the meeting, a statement must be received by the Committee at least ten days prior to the date of the meeting.

DATES: The 28th Customs and Border Protection Airport and Seaport User Fee Federal Advisory Committee meeting will be held on Wednesday, October 27, 2004, at 12 p.m.–4 p.m., in the Customs International Briefing Conference Room (B 1.5–10), Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Roberto Williams, Office of Finance, Room 4.5A, 1300 Pennsylvania Avenue, Washington, DC 20229, telephone: (202) 344–1101; email: *Roberto.M.Williams@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Airport and Seaport User Fee Advisory Committee was created under the authority of 8 U.S.C. 1356(k) (section 286(k) of the Immigration and Nationality Act, as amended; see also the Federal Advisory Committee Act (5 U.S.C.A. App. section 2)) to meet periodically and advise the Attorney General on issues related to the performance of certain inspectional services performed by the Immigration and Naturalization Service (INS). Since the legacy INS inspection component has been merged with the U.S. Customs Service (along with other agencies) to form the Bureau of Customs and Border Protection (CBP), effective on March 1, 2003, the function of the Committee is now under CBP and the Committee now advises the Secretary of Homeland Security.

The Committee consists of representatives of the airline and other transportation industries that are subject to fees and charges authorized by law or proposed by the governing agency (either INS prior to March 1, 2003, or CBP afterward). The responsibility of this standing Advisory Committee is to advise on issues related to the performance of Airport and Seaport agriculture, customs, and immigration inspection services. This advice should include, but need not be limited to, the time period in which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. These responsibilities are related to the assessment of an immigration user fee pursuant to 8 U.S.C. 1356(d), the assessment of a customs inspection user fee pursuant to 19 U.S.C. 58c(a)(5), and the assessment of an agriculture inspection user fee pursuant to 21 U.S.C 136a.

Public Meeting

In accordance with 8 U.S.C. 1356(k), CBP announces that the 28th meeting of the Airport and Seaport User Fee Advisory Committee will take place at 12 p.m. on October 27, 2004, at the Customs International Briefing Conference Room (B 1.5–10), Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. The purpose of this meeting is to perform the Committee's advisory responsibilities pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.). The meeting is open to the public and advance notice of attendance is requested to ensure adequate seating. Persons planning to attend should notify the contact person identified previously in this notice at least ten days prior to the meeting, in order to be included on the list of those cleared for admittance. Members of the public may submit written statements at any time before or after the meeting to the contact person for consideration by this Advisory Committee. Only written statements received by the contact person at least ten days prior to the meeting will be considered for discussion at the meeting. A transcript of the meeting will be made available online for public viewing about two weeks following the meeting.

Meeting Agenda

The Advisory Committee focuses its attention on those areas of most concern and benefit to the travel industry, the traveling public, and the Federal Government. At this meeting, the Committee is expected to pursue the following agenda (which may be modified prior to the meeting):

1. Introduction of the Committee members;

2. Discussion of activities since last meeting;

3. Discussion of administrative issues;

4. Discussion of future traffic trends;

5. Discussion of specific concerns and questions of Committee members;

6. Discussion of relevant written statements submitted in advance by members of the public;

7. Scheduling of next meeting.

Dated: October 7, 2004.

Richard L. Balaban,

Assistant Commissioner, Office of Finance.

[FR Doc. 04–22911 Filed 10–12–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4907–N–32]

Notice of Proposed Information Collection; Comment Request; Request for Prepayment of Direct Loans on Sec 202 & 202/8 Projects

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 13, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Kimberly Munson, Housing Project Manager, @ 202–708–1320 ext 5122 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Request for Prepayment of Direct Loans on sec 202 & 202/8 Projects.

OMB Control Number, if applicable: 2502–0554.

Description of the need for the information and proposed use: Request from owner to prepay a multifamily housing project mortgage financed under sec. 202 with inclusion of FHA insurance guidelines.

Agency form numbers, if applicable: 9808.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of burden hours needed to prepare the information collection is 300 the number of respondents is 150 generating approximately 150 annual responses; the frequency of response is on occasion; and the estimated time needed to prepare the response is 2 hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., chapter 35, as amended.

Dated: October 5, 2004.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. 04–22906 Filed 10–12–04; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4908–N–02]

Notice of Proposed Information Collection: Healthy Homes and Lead Hazard Control Programs

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 13, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to

the proposal by name and/or OMB Control Number and should be sent to: Gail Ward, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room P–3206, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; (202) 708–2374 (this is not a toll-free number). Hearing-or-speech-impaired persons may access the number above via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Healthy Homes and Lead Hazard Control Programs.

OMB Control Number: 2539–0015.

Need For the Information and Proposed Use: This information collection is required in conjunction with the issuance of Notices of Funding Availability announcing the availability of approximately $150,000,000 for Healthy Homes and Lead Hazard Control Programs which are authorized under Title X of the Housing and Community Development Act of 1992, Pub. L. 102–550, section 1011, 42 U.S.C. 4852; the Housing and Urban Development Act of 1970, sections 501 and 502, 12 U.S.C. 1701z–1 and 1701z–2; and other legislation.

Agency Form Numbers: HUD 96008, HUD 96009, and the standard grant application forms: HUD 96010, SF 424, HUD 424B, HUD 424C, HUD 424CBW, HUD 27061, HUD 2880, HUD 2990, HUD 2991, HUD 2993, HUD 2994, SF LLL, SF 1199A, HUD 27054.

Members of Affected Public: Potential applicants include State, tribal, local governments, not-for-profit institutions and for-profit firms located in the U.S.

TOTAL BURDEN ESTIMATE

[First year]

Task	Number of respondents	Frequency of responses	Hours per response	Burden hours
Application Development	250	1	80	20,000
Award of Grant	80	1	16	1,280

Total Burden Hours: 21,280.

Status of the Proposed Information Collection: Revision.

Additional Information: The obligation to respond to this information collection is mandatory. Due to the improvements and simplification made to the reporting process, we expect the actual total burden hours to be substantially less than the estimated total burden hours.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 6, 2004.

Joseph F. Smith,

Deputy Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 04–22965 Filed 10–12–04; 8:45 am]

BILLING CODE 4710–70–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903-N–79]

Notice of Submission of Proposed Information Collection to OMB; Rehabilitation Mortgage Insurance Underwriting Program Section 203 (K)

AGENCY: Office of the Chief Information Officer.

ACTION: Corrected notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

HUD has submitted this request for reinstatement of an information collection for the application, qualification, and certification processes for participants in the Rehabilitation Mortgage Insurance program.

DATES: *Comments Due Date:* November 12, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0527) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov* or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms. Deitzer and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB a request for approval of the information collection described below. This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of

information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Rehabilitation Mortgage Insurance Underwriting Program Section 203 (K).

OMB Approval Number: 2502–0527.

Form Numbers: HUD–92700, HUD–92700–A, HUD–9746–A.

Description of the Need for the Information and its Proposed Use: Request for reinstatement of an information collection for the application, qualification, and certification processes for participants in the Rehabilitation Mortgage Insurance program.

Frequency of Submission: On occasion, quarterly.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3,030	1.7		44		231,000

Total Estimated Burden Hours: 231,000.

Status: Reinstatement without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 6, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E4–2594 Filed 10–12–04; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–020–1010–PO]

Notice of Public Meeting, Eastern Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior, Montana, Billings and Miles City Field Offices.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Montana Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held November 18, 2004 in Billings, MT beginning at 8 a.m. When determined, the meeting place will be announced in a News Release. The public comment period will begin at approximately 11 a.m. and the meeting will adjourn at approximately 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Jacobsen, Public Affairs Specialist, Miles City Field Office, 111 Garryowen Road, Miles City, Montana, 59301. Telephone: (406) 233–2831.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Montana. At this meeting, topics to discuss include:

Field Manager Updates.

The Miles City Field Office Resource Management Plan Updates.

Billings Shooting Area subcommittee update.

Public Access subcommittee update—and other topics the council may raise.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided above.

Dated: October 5, 2004.

David McIlnay,

Field Manager.

[FR Doc. 04–22905 Filed 10–12–04; 8:45 am]

BILLING CODE 4310–$$–P

INTERNATIONAL TRADE COMMISSION

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: International Trade Commission.

TIME AND DATE: October 18, 2004 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–776–779 (Review) (Certain Preserved Mushrooms From Chile, China, India, and Indonesia)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before October 28, 2004.)
5. Outstanding action jackets: (1) Document No. GC–04–114 concerning proposed rulemaking and changes in Agency procedures.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: October 7, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–23013 Filed 10–8–04; 11:10 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Television Systems Committee, Inc.

Notice is hereby given that, on September 14, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Television Systems Committee, Inc. (''ATSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing

(1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of involving the Act's provisions limiting the recovery of antitrust plaintiffs to actural damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business is: Advanced Television Systems Committee, Inc., Washington, DC. The nature and scope of ATSC's standards development activities are: Coordinating television standards among different communications media, focusing on digital television, interactive systems and broadband multimedia communications; developing digital television implementation strategies; and presenting educational seminars on the ATSC standards.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22889 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Oil Chemists' Society

Notice is hereby given that, on September 14, 2004, pursuant to Section 6(a) of the National Cooperative Research and production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), American Oil Chemists' Society (''AOCS'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: American Oil Chemists' Society, Champaign, IL. The nature and scope of ACOS's standards development activities are: The society investigates, adopts and publishes uniform methods of analysis and recommended practices in the filed of oils, fats and related materials. These methods are used in processing, trading, utilizing, and evaluating fats, oils and lipid products. The scope of the work includes but is not limited to the following subjects: Vegetable oil source material, oilseeed by-products, commercial fats and oils, soap and synthetic detergents, glycerin, sulfonated and sulfated oils, soapstocks, specifications for reagents and solvents, and method development procedures.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22890 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on September 15, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the American Society of Mechanical Engineers (''ASME'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization, and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: American Society of Mechanical Engineers, New York, NY. The nature and scope of ASME's standards development activities are: Activities that address a broad range of topics related to mechanical engineering and the operation of conformity assessment, including requirements for safety, health, design, production, construction, maintenance, performance or operation of equipment, and qualification of personnel.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22895 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Water Works Association

Notice is hereby given that, on September 16, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), American Water Works Association (''AWWA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: American Water Works Association, Denver, Co. The nature and scope of AWWA's standards development activities are: To develop, adopt, and publish voluntary consensus standards that set out the minimum requirements of products or processes used in the water profession. AWWA standards address, where appropriate, procedures of design; characteristics of materials, substances, products, equipment, systems or services; processes of manufacturing, assembly, transporting, storage or installation; techniques of analysis; testing and inspection methods and requirements; parameters of use; and such other elements essential to provide adequate reliability, life and usage in the water profession. AWWA's voluntary consensus standards are developed by AWWA members and other interested parties.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22888 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—NPES the Association for Suppliers of Printing, Publishing and Converting Technologies

Notice is hereby given that, on September 17, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), NPES The Association for Suppliers of Printing, Publishing and Converting Technologies (''NPES'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: NPES The Association for Suppliers of Printing, Publishing and Converting Technologies, Reston, VA. The nature and scope of NPES's standards development activities are: Coordination of the development of national and international consensus and safety standards for the printing, publishing and converting industries.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22886 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Canadian Standards Association and CSA America, Inc.

Notice is hereby given that, on August 31, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Canadian Standards Association and CSA America, Inc. (''CSA'') have filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the names and principal places of business of the standards development organizations are: Canadian Standards Organization, Toronto, Ontario, CANADA and CSA America, Inc., Cleveland, OH. The nature and scope of CSA's standards development activities are: The development of voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus. The scope of standards developed by CSA include standards in the following subject areas: Basic Engineering, Building Products, Building Systems, Concrete, Factory Built Buildings and Mobile Homes, Masonry, Plumbing Products and Materials, Structures, Welding and Structural Metals, Wood, Electrical Installations, Electrical Consumer and Commercial Products, Electrical Industrial Products, Electrical Wiring Products, Electricity Distribution and Transmission Systems, Electrical Engineering, Electromagnetic Compatibility, Telecommunications, Information Technology, Energy Efficiency, Fuel Burning Equipment, Gas Equipment, Nuclear Power Plants, Oil and Gas Systems and Materials, Offshore Structures, Renewable Energy, Distributed Generation Technology, Environmental Management, Environmental Technology, Sustainable Forest Management, Community Safety and Well-being, Health Care, Occupational Health and Safety, Elevating Devices, Pressure Vessels, Transportation, Business Management and Quality Management.

Additional information concerning CSA's standards development activities may be obtained by contacting Mr. RJ Falconi, Vice President, General Counsel and Corporate Secretary, CSA Group, 178 Rexdale Blvd., Toronto, ON M9W 1R3 Canada, Telephone (416) 747–2722.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22887 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Engine Manufactures Association

Notice is hereby given that, on September 14, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Engine Manufacturers Association (''EMA'') has filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Engine Manufacturers Association, Chicago, IL. The nature and scope of EMA's standards development activities are: To develop, establish and coordinate voluntary consensus standards applicable to engine fluids, which include lubricants, fuels and coolants. As a part of its standards setting activities, EMA develops performance criteria, consensus positions, recommended guidelines and performance specifications in order to adopt consensus positions on engine fluid issues of concern to the industry as a whole.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22896 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Institute of Inspection Cleaning and Restoration Certification

Notice is hereby given that, on September 14, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Institute of Inspection Cleaning and Restoration Certification (''IICRC'') has filed written notifications

simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization, and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Institute of Inspection Cleaning and Restoration Certification, Vancouver, WA. The nature and scope of IICRC's standards development activities are: to engage in a segment of the cleaning, restoration and inspection industry, primarily involving floor coverings, upholstery, personal property, water and fire damage restoration of structures and contents, and model remediation of structures and contents.

Dorothy B. Fountain

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22894 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Association of Fire Equipment Distributors

Notice is hereby given that, on September 15, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Association of Fire Equipment Distributors (''NAFED'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: National Association of Fire Equipment Distributors, Chicago, IL. The nature and scope of NAFED's standards development activities are: certification testing for individuals involved in the sale, service, maintenance, training, and testing of fire extinguishers, fire extinguishing systems, and life safety equipment.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22893 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Golf Car Manufacturers Association, Inc.

Notice is hereby given that, on September 10, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Golf Car Manufacturers Association, Inc. (''NGCMA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: National Golf Car Manufacturers Association, Inc., Atlanta, GA. The nature and scope of NGCMA's standards development activities are: The development, maintenance and periodic updating of ANSI/NGCMA Z130.1 (safety specifications for the design and operation of golf cars) and ANSI/NGCMA Z135 (safety specifications for the design and operation of personal transport vehicles) through American National Standards Institute consensus group protocols and procedures.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22892 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Instrumentation, Systems, and Automation Society

Notice is hereby given that, on September 9, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Instrumentation, Systems, and Automation Society (''ISA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: The Instrumentation, Systems, and Automation Society, Research Triangle Park, NC. The nature and scope of ISA's standards development activities are: The development and maintenance of standards, recommended practices, and technical reports for instrumentation, measurement, control, systems, and automation.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22891 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The VMEbus International Trade Association

Notice is hereby given that, on September 10, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), VMEbus International Trade Association (''VITA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its

standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: VMEbus International Trade Association, Fountain Hills, AZ. The nature and scope of VITA's standards development activities are: Definitions, specifications, requirements, and methods of test for computer buses (specifically, but not limited to VMEbus, Futurebus+, VSBbus) and associated software. These specifications will involve Electrical, Protocol (Logical), and Physical (Mechanical) layers for Massively Parallel Architectures, IPC (Interprocessor Communications) channels, AUTOBAHN and other serial buses, Mezzanine Buses for centralized I/O models, Multichip modules, Field Buses (serial buses) for distributed I/O models, Parallel-grouped serial Sub-buses (multiport architectures) with Block Transfer Mechanisms, Reflective Memory Architectures, and other Intracrate Computer Buses.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–22885 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to 21 CFR 1301.33(a), this is notice that on July 8, 2004, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed:

Drug	Schedule
N-Ethylamphetamine (1475)	I
4-Methoxyamphetamine (7411)	I
2,5-Dimethoxyamphetamine (7396).	I
Difenoxin (9168)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Codeine (9050)	II
Oxycodone (9143)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Dextropropoxyphene, bulk (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCD) and must be filed no later than December 13, 2004.

Dated: September 28, 2004.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 04–22935 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

North American Free Trade Agreement—Transitional Adjustment Assistance Program: General Administration Letter Interpreting Federal Law

The Employment and Training Administration interprets Federal law requirements pertaining to the North American Free Trade Agreement—Transitional Adjustment Assistance (NAFTA—TAA). These interpretations are issued in General Administration Letters (GALs) to the State Workforce Agencies. Several GALs were inadvertently omitted from publication in the **Federal Register** by a previous Administration. In order to correct these omissions, the GALs described below are published in the **Federal Register** in order to inform the public.

GAL 7–94, Change 1, Change 2, and Change 3 to amend operating instructions issued in GAL 7–94 that address applicant processing procedures for workers certified as eligible to apply for benefits under both subchapters A (the regular TAA program), and D (the NAFTA–TAA program), of Chapter II, Title II of the Trade Act of 1974, as amended.

GAL 7–94, Change 1

Changes to the TAA program operating instructions in GAL 7–94, Change 1 focus on revising operating instructions to the States pertaining to nonduplication of assistance, allowing workers eligible for both NAFTA-TAA and regular TAA programs to make a one-time change in program participation in cases where certification for a second Trade program occurs after the worker has begun to receive benefits under the other Trade program. States are also encouraged to implement applicant tracking and reporting procedures that will ensure States' compliance and allow the States to evaluate Trade program effectiveness.

GAL 7–94, Change 2

Changes to the TAA program operating instructions in GAL 7–94, Change 2 focus on amended operating instructions to the State Agencies in regard to making individual eligibility determinations for Trade Readjustment Allowance (TRA) benefits under the NAFTA–TAA program. These new instructions implement the United States District Court for the District of Columbia preliminary approval, pending a hearing for class members, of a settlement of *Baker* v. *Reich* between the Department of Labor and the United Auto Workers Union (UAW).

GAL 7–94, Change 3

This GAL provides for States use of NAFTA–TAA program funds for dual eligible workers that opt for TAA, in order to provide training, job search and relocation services in cases where regular Trade program funds are not available (either the State does not have funds in its regular Trade account or has not received requested regular Trade funds from the National Office).

Dated: October 6, 2004.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

U.S. Department of Labor, Employment and Training Administration, Washington, DC 20210

Classification: TAA.
Correspondence Symbol: TWT.
Issue Date: March 29, 1996.
Expiration Date: March 31, 1997.
Rescissions: None.

Directive: General Administration Letter No. 07–94, Change 1.

To: All State Employment Security Agencies.

From: Barbara Ann Farmer, Administrator for Regional Management.

Subject: Trade Adjustment Assistance (TAA) Program Revised Applicant Processing Procedures.

1. *Purpose.* To amend operating instructions issued in GAL 7–94 that address applicant processing procedures for workers certified as eligible to apply for benefits under both subchapters A (the regular TAA program), and D (the NAFTA–TAA program), of Chapter II, Title II of the Trade Act of 1974, as amended.

2. *References.* The Trade Act of 1974, as amended; Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182), 20 CFR part 617; *GAL 6–94;* and *GAL 7–94.*

3. *Background.* The Trade Adjustment Assistance program provides reemployment services, including training, job search and relocation allowances and trade readjustment allowances (TRA) to individuals whose unemployment is linked to increased imports, or, in the case of the NAFTA-TAA program, to a shift in production to Mexico or Canada. Chapter II, Title II of the Trade Act of 1974, as amended, requires the Secretary of Labor to implement and carry out the specified worker adjustment assistance provisions. The Secretary has executed agreements with each State to administer adjustment services.

In response to inquiries from the States, this GAL contains amended Employment and Training Administration (ETA) operating instructions for the States. It requires States to provide every dual eligible worker (that is, a worker whose separation is covered by certifications under both the regular and NAFTA–TAA programs), at the point where they become eligible under the second Trade program, with the information necessary to make a fully informed choice regarding the Trade program under which they wish to permanently participate.

4. *Nonduplication of Assistance.* Section 249A (19 U.S.C. 2322) of the Trade Act of 1974, as amended, addresses nonduplication of assistance:

> No worker may receive assistance relating to a separation pursuant to certifications under both subchapters A and D of this chapter.

The intent of this section is to prevent a worker from receiving duplicate benefits under both the regular TAA and NAFTA–TAA programs.

General Administration Letter (GAL) 7–94 contains operating instructions to State agencies for implementing the amendments to the Trade Act contained in the NAFTA Implementation Act. GAL 7–94, page 16 contains instructions pertinent to the ''Non-duplication of Assistance'' provision of the Law. The ''Administration'' portion of this instruction states:

> This new section is intended to eliminate duplication of assistance and benefits to a worker in situations where a worker group is certified concurrently for both regular TAA and NAFTA-TAA. These situations should be uncommon. However, should this occur, the worker will be provided benefits under one or the other certification. The worker is to make the decision regarding which certification will apply. Once a decision is made by the worker, it cannot be changed. Also, State agency staff must explain the difference between programs so workers can make an informed choice.

5. *Revised Operating Instructions.* The instructions to the States pertaining to Nonduplication of Assistance are revised to read as follows:

> The intent of this section is to prevent duplication of assistance to workers who are eligible to receive assistance pursuant to certifications issued under both the regular and NAFTA-TAA programs (dual eligible workers). In order to fairly administer this section, State agency staff must fully explain the difference between programs to dual eligible workers. This will assure that the affected workers are provided with the ability to make a completely informed choice regarding the application of benefits under both programs. A dual eligible worker who has entered, or is otherwise receiving benefits under one program, may elect to switch after being certified as eligible to apply under the second program. Under such circumstances, the State may allow the worker's benefits to continue to be paid by the first program until the first convenient break in training as determined by the State. This approach is currently used with Trade eligible workers who are also enrolled under the Job Training Partnership Act (JTPA) Title III program. In order to minimize the administrative burden on the States, once a decision is made by the worker after becoming eligible for the second program, it may not be changed. This election will also stand in the case of a subsequent separation covered by the same two certifications.

6. *Applicant Processing.* States are encouraged to implement applicant tracking and reporting procedures that will ensure States' compliance with these instructions and allow the States to evaluate Trade program effectiveness.

Section 225 (19 U.S.C. 2275) of the Trade Act requires that workers be provided with full information about benefits. Therefore, when workers become certified as eligible to apply for benefits under the second program, Trade staff are to fully explain the difference between the programs so that workers can make a completely informed choice as to the program under which the workers elect to receive benefits. States are to counsel workers who are receiving benefits under one program and later become eligible to receive benefits under a second certification. States are to determine the workers' choice of the program under which they wish to permanently participate within 15 working days from the date the second certification is signed by the National Office. Workers are also to be clearly informed about eligibility requirements for TRA under both programs. Once the worker has made a decision it may not be changed. This election will also stand in the case of a subsequent separation covered by the same two certifications.

A change from one program to the other can never result in increasing the amount of benefits for training, job search, and relocation allowances that a claimant may receive. However, some claimants may become eligible for TRA by changing from the NAFTA-TAA program to the regular program. The reason for this is that the regular program does not require, as a condition of eligibility for TRA, that a worker enter a training program within a fixed period. In any event, such claimants would never be entitled to more than one full round of TRA benefits on the basis of the two certifications.

In order to minimize the administrative burden on the States, when a worker receiving benefits under one program elects to switch after becoming eligible for the second program, the State may, as is current practice with Trade eligible workers who are dual enrolled under the JTPA Title III program, allow the workers' benefits to continue to be paid by the first program until the first convenient break (*e.g.*, the end of a semester/quarter) in training as determined by the State.

Since the Trade program will often depend upon the local Job Service office staff to ''counsel'' a claimant to choose between NAFTA and regular Trade benefits, written instructions are to be provided by the State to all local Office staff who counsel trade applicants. The instructions provided by the State must continue to encourage workers to enter training as quickly as possible after they are initially certified as eligible to receive benefits, regardless of which program they are certified under.

7. *Action Required.* States are required to implement the revised administrative procedures for ensuring non-duplication of assistance as set forth in this document as of April 1, 1996. States are advised to inform all

appropriate State staff of the contents of this document and ensure that staff have the management information system (MIS) capability to effectively track and report on benefits and services provided to dual eligible workers to avoid duplication of services.

8. *Inquiries.* States are to direct all inquiries to the appropriate ETA Regional Office.

U.S. Department of Labor, Employment and Training Administration Washington, DC 20210

Classification: TAA.
Correspondence Symbol: TWT.
Issue Date: October 23, 1996.
Expiration Date: October 31, 1997.
Rescissions: None.

Directive: General Administration Letter No. 07–94, Change 2.

To: All State Employment Security Agencies.

From: Barbara Ann Farmer, Administrator for Regional Management.

Subject: Trade Adjustment Assistance (TAA) Program Revised Applicant Processing Procedures.

1. *Purpose.* To amend operating instructions issued in GAL 7–94 that address applicant processing procedures for workers certified as eligible to apply for benefits under both subchapters A (the regular TAA program), and D (the North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) program), of Chapter II, Title II of the Trade Act of 1974, as amended.

2. *References.* The Trade Act of 1974, as amended; Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182), 20 CFR part 617; *GAL 6–94;* and *GAL 7–94.*

3. *Background.* General Administration Letter (GAL) 7–94 contains operating instructions to State agencies for implementing the amendments to the Trade Act contained in the NAFTA Implementation Act. This Change 2 contains amended operating instructions to the State Agencies in regard to making individual eligibility determinations for Trade Readjustment Allowance (TRA) benefits under the NAFTA-TAA program. These new instructions implement the United States District Court for the District of Columbia preliminary approval, pending a hearing for class members, of a settlement of *Baker* v. *Reich* between the Department of Labor and the United Auto Workers Union (UAW).

Pursuant to the Court decision and order issued on June 11, 1996, the settlement approved on September 9, 1996 bars the use of the current NAFTA–TAA definition, as set forth in GAL 7–94, of ''initial unemployment compensation benefit period'' currently employed by State Agencies in determining applicants' eligibility for TRA benefits under the NAFTA–TAA program.

In accordance with this settlement, this GAL also contains Employment and Training Administration (ETA) operating instructions for the States for providing relief for workers who were incorrectly denied, or who otherwise incorrectly did not receive, TRA benefits under the prior definition.

4. *Trade Readjustment Allowances—Previous Operating Instructions.* GAL 7–94, page 13, contains instructions pertinent to the ''Trade Readjustment Allowances'' provision of the NAFTA Implementation Act. These instructions address TRA as follows:

> To qualify for TRA payments, an eligible worker must be enrolled in a training program approved by the later of—
>
> i. The last day of the 16th week of such worker's initial unemployment compensation benefit period, or
>
> ii. The last day of the 6th week after the week in which the Secretary of Labor issues a certification covering such worker.
>
> Application of time periods. The 16-week time requirement for enrolling in training in order to qualify for TRA will be applied literally. In order to be eligible to receive TRA under a NAFTA-TAA certification, the worker must be enrolled in an approved training program by the end of the 16th week of that worker's initial unemployment compensation benefit period.
>
> This fixed 16-week period begins with the effective date of the claim and ends with the last day of the 16th week thereafter. Included in this 16-week fixed period are weeks of waiting period credit, weeks of disqualification, weeks of employment, and weeks of unemployment.
>
> Initial unemployment compensation benefit period means the same as the term ''first benefit period'' defined at 20 CFR 617.3(r). ''First benefit period'' means the benefit period established after the individual's first qualifying separation or in which such separation occurs.

5. *Trade Readjustment Allowances—Revised Operating Instructions.* The instructions to the States pertaining to TRA are revised to read as follows:

> To qualify for TRA payments, an eligible worker must be enrolled in a training program approved by the later of—
>
> i. The last day of the 16th week of such worker's initial unemployment compensation benefit period, or
>
> ii. The last day of the 6th week after the week in which the Secretary of Labor issues a certification covering such worker.
>
> Section 250(d)(3)(B) of the Trade Act provides for a 30-day extension of these deadlines in case of extenuating circumstances.
>
> Application of time periods. The 16-week time requirement for enrolling in training in order to qualify for TRA will be applied as set forth below. In order to be eligible to receive TRA benefits under a NAFTA–TAA certification, the worker must be enrolled in an approved training program by the end of the 16th week of that worker's ''initial unemployment compensation benefit period''.
>
> This 16-week period begins with the first day of the first calendar week following the worker's most recent qualifying separation and ends with the last day of the 15th consecutive calendar week thereafter. Included in this 16-week period are weeks of waiting period credit, weeks of disqualification, weeks of employment, and weeks of unemployment.
>
> Initial unemployment compensation benefit period means the period beginning with the first week following a worker's most recent qualifying separation due to import competition from or production shift to Canada or Mexico. This term is not the same as the term ''first benefit period'' defined at 20 CFR 617.3(r).

6. *Retroactive Relief.* In order to provide relief for all workers incorrectly denied TRA benefits, or who would not have qualified for benefits, under GAL 7–94, the States will implement the following actions:

a. Each State NAFTA–TAA coordinator must compile a list of all workers who, since the inception of the NAFTA–TAA program, had qualifying separations from employment for NAFTA-related reasons and who were denied or otherwise did not receive TRA benefits under either the NAFTA–TAA program or the regular TAA program (*i.e.*, dual certified) for the same qualifying separation. (The State need not include on the list anyone determined ineligible for TRA benefits under the NAFTA–TAA program for reasons other than the State's application of the original definition of ''initial unemployment compensation benefit period''.)

b. State NAFTA—TAA coordinators must then notify, no later than November 22, 1996, all the workers on the list (at their last known address), that as a result of the U.S. District Court's action, they may now be eligible to receive TRA benefits under the NAFTA-TAA program if they enroll in TAA-approved training, or receive basic TRA if they have already completed training that is TAA approved.

c. The notification sent to the workers must include the attached Court documents which include instructions for claimants to contact their local Employment Service office by April 15, 1997, for a determination or redetermination of their individual eligibility for training assistance and TRA benefits under the NAFTA–TAA program. Upon request, the worker notifications, including the Court

documents, must be supplied to a claimant in Spanish or other languages.

d. States must also inform affected local labor unions and State and local central labor bodies of the settlement and of their members' rights to pursue a claim for TRA benefits.

e. Finally, the States must publish, in the same manner as notices of Certification under the NAFTA–TAA program are published, the attached (or similar) press notice about the settlement in newspapers of general circulation. In order to inform as many eligible workers as possible of the right to receive a determination or redetermination of individual eligibility for training and TRA under the NAFTA–TAA program, States must also make this information available to television and post it on the Internet (where available).

7. *Eligibility Determinations and Redeterminations.* In order to provide retroactive relief under the settlement, States must provide eligibility determinations or redeterminations to workers who were previously denied, or who would not have qualified for, TRA benefits under the NAFTA-TAA program based upon the prior definition of ''initial unemployment compensation benefit period''. An individual need not have previously filed a claim to be eligible for retroactive relief under this settlement. Workers determined eligible for TRA benefits under the terms of the settlement must be advised that they have 16 weeks, from the date the eligibility determination or redetermination was made by the State, to enroll in a TAA-approved training program, if they have not previously completed one. (In the event that appropriate training is not scheduled to begin within 30 days of the expiration of the 16-week period, a claimant will be permitted to take advantage of the 30-day extension period provided in Section 250(d)(3)(B) of the Trade Act.) Under the settlement, the States' calculation of the 104-week training period in 20 CFR 617.22(f)(2) begins with the worker's first day of training and the 104-week eligibility period for TRA begins with the first week following the week that the eligibility determination or redetermination for TRA was made.

The 210-day rule under 19 U.S.C. 2293(b) is not applicable to individuals seeking retroactive relief under this settlement. A worker may receive basic and additional TRA benefits only during periods of participation in a TAA-approved training program or may continue to receive only basic TRA after completion of a TAA-approved training program.

Retroactive relief is intended to cover all individuals affected between the time the NAFTA–TAA program was implemented and the time the settlement was approved by the Court on September 9, 1996.

8. *Reporting Required.* The Department is required to report to the UAW on the States' implementation of the settlement. ETA is seeking expedited clearance for this requirement under the Paperwork Reduction Act of 1995. To assist this effort, States must provide the following information to the Department as directed:

a. States must provide to the Office of Trade Adjustment Assistance, by December 31, 1996, either by phone, electronic mail, or in writing, a summary of the number of workers notified of the proposed settlement and the number of workers who have contacted the State agency for eligibility determinations.

b. Beginning with the quarterly reporting period ending December 31, 1996, the States will provide the National Office with quarterly written reports on: The number of people requesting determination or redetermination of entitlement; the number of people determined entitled to relief; and the number of people receiving TRA first payments under this settlement. ETA Form 563 should be used for this purpose.

c. The States are required to continue to report the data described in paragraph b above on a quarterly basis for five additional quarters.

9. *Funding.* In order to support the States' efforts to comply with the terms of this settlement, the Department will allow the States to request and/or access funds from the following sources:

a. States may use or apply unspent or surplus NAFTA–TAA administration funds to cover the costs of notifying, processing and making referral to training for potentially affected workers.

b. States should report redeterminations on line 5, section C of the UI–3 report. The MPU value is the same as the allocated initial claims MPU.

c. States may, using the ETA form 9023, request special NAFTA–TAA administration funds to pay the costs of upgrading or enhancing their NAFTA–TAA MIS reporting capability systems, including improving the UI interface in order to help contact workers within the stipulated timeframes or to help track and report on benefits and services provided to workers determined eligible for relief.

d. Additional NAFTA–TAA program funds will also be made available to the States through the usual ETA 9023 request form to help States provide NAFTA–TAA training to workers determined eligible for retroactive relief.

10. *Action Required.*

a. States are required to implement the revised instructions for making individual eligibility determinations for TRA benefits under the NAFTA–TAA program as set forth in these operating instructions and the settlement agreement.

b. States must provide retroactive relief under the settlement to workers who were previously denied, or who would not have qualified for, TRA benefits under the NAFTA–TAA program through the States' use of the previous interpretation of ''initial unemployment compensation benefit period'' prohibited by the settlement and the Court's decision and order.

c. States should inform all appropriate State staff of the contents of this document and ensure that staff have the necessary resources available to comply with the settlement.

11. *Inquiries.* States should direct all inquiries to the appropriate ETA Regional Office.

12. *Attachment.* Draft NAFTA News Release.

Draft NAFTA News Release

Prenote to States: When you issue this release, make sure all references to the ''employment service'' conform to the name of the responsible agency in your State.

Benefits Extended to More Workers

U.S. Labor Department, Union Reach Agreement on Broader Definition of NAFTA Eligibility

The U.S. Department of Labor and the United Autoworkers Union recently reached agreement on the conditions under which workers may receive benefits under the North American Free Trade Agreement Transitional Adjustment Assistance (NAFTA–TAA) program. The new, broader definition means that more workers will be eligible for income-support payments while they train for new jobs.

The settlement provides that a worker separated from employment for reasons related to trade with Mexico or Canada, or a shift of production to Mexico or Canada, may now be eligible to receive income-support benefits, known as Trade Readjustment Allowances (TRA), if the worker has been certified by the Labor Department and is participating in an approved training program within 16 weeks of the worker's most recent qualifying separation (layoff).

The issue was resolved September 9, 1996, when the United States District

Court for the District of Columbia issued preliminary approval, pending a fairness hearing for class members, of a settlement of *Baker* v. *Reich,* a case brought by the United Autoworkers Union against the Department of Labor, concerning the definition of eligibility.

The settlement applies to individuals who had been certified for NAFTA–TAA but who were denied TRA benefits because they did not meet an earlier definition of eligibility, which was rejected by the court in June.

State Employment Security Agencies have begun to notify workers certified for NAFTA–TAA that, as a result of the court's action, they may now be eligible to receive TRA benefits if they enroll in vocational training or have completed appropriate training.

Workers who have been certified for NAFTA–TAA have until April 15, 1997, to contact their local Employment Service office for a redetermination of their eligibility for assistance. If a worker is determined to be eligible for benefits under NAFTA, the worker may then receive TRA benefits if he or she is participating in, or has completed, a TAA-approved training program. A worker may have up to 104 weeks from the date of redetermination to collect up to 52 weeks of TRA benefits.

Employment Service offices are listed in the blue pages of the telephone directory under State government. Depending on the State, these offices may also be called the ''Job Service'' or the ''Employment Security Commission.''

U.S. Department of Labor, Employment and Training Administration, Washington, DC 20210

Classification TAA.
Correspondence Symbol: TWT.
Date: July 3, 1997.

Directive: General Administration Letter No. 07–94, Change 3.

To: All State Employment Security Agencies.

From: Robert S. Kenyon, Acting Administrator for Regional Management.

Subject: Trade Adjustment Assistance (TAA) Program, Revised Applicant Processing Procedures.

1. *Purpose.* To clarify operating instructions issued in GAL 7–94, Change 1 regarding applicant processing procedures for workers certified as eligible to apply for benefits under both subchapters A (the Regular TAA program) and D (the NAFTA–TAA Program), of Chapter II, Title II of the Trade Act of 1974.

2. *References.* The Trade Act of 1974; 20 CFR part 617; and GAL 7–94 and 7–94, Change 1.

3. *Background.* In response to inquiries from the States, GAL 7–94, Change 1 provided amended Employment and Training Administration Operating Instructions to the States regarding the delivery of services to any worker who is dual eligible (that is, a worker whose separation is covered by certifications under both the regular Trade and NAFTA–TAA programs). It required States to provide every dual eligible worker, at the point at which they become eligible under the second Trade certification, with the information necessary to make a fully informed choice regarding the Trade program under which they wish to permanently participate. The intent of the GAL was to help the States encourage workers to enter training as quickly as possible after they are initially certified as eligible to receive benefits, regardless of the program under which they are certified.

This GAL amends the applicant processing procedures for States for implementing the amended Employment and Training operating instructions contained in GAL 7–94, Change 1.

4. *Operating Instructions.* GAL 7–94, Change 1 revised the operating instructions to the States pertaining to Nonduplication of Assistance to read as follows:

> The intent of this section is to prevent duplication of assistance to workers who are eligible to receive assistance pursuant to certifications issued under both the regular and NAFTA–TAA programs (dual eligible workers). In order to fairly administer this section, State agency staff must fully explain the difference between programs to dual eligible workers. This will assure that the affected workers are provided with the ability to make a fully informed choice regarding the application of benefits under both programs. A dual eligible worker who has entered, or is otherwise receiving benefits under one program, may elect to switch after being certified as eligible to apply under the second program. Under such circumstances, the State may allow the worker's benefits to continue to be paid by the first program until the first convenient break in training as determined by the State. This approach is currently used with Trade eligible workers who are also enrolled under the Job Training Partnership Act (JTPA) Title III program. In order to minimize the administrative burden on the States, once a decision is made by the worker after becoming eligible for the second program it may not be changed. This election will also stand in the case of a subsequent separation covered by the same two certifications.

5. *Revised Applicant Processing.* GAL 7–94, Change 1 also revised applicant processing procedures to provide greater flexibility and reduce the administrative burden on the States to serve dislocated workers. States were informed that when a worker receiving benefits under one program elects to switch after becoming eligible for the second program, the State may, as is current practice with Trade eligible workers who are dual enrolled under the JTPA Title III program, allow the workers' benefits to continue to be paid by the first program until the first convenient break (*e.g.*, the end of a semester/quarter) in training as determined by the State. This did not affect the prohibition that, in any event, claimants are never entitled to more than one full round of TAA services and TRA on the basis of the two certifications, nor does this new guidance change this prohibition.

States have recently noted that with the increasing number of workers certified under both programs there may, at some point, be insufficient funding available to provide services to all workers requesting assistance under the regular Trade program. It is estimated that 65–70% of workers certified as eligible for NAFTA–TAA program assistance are also certified eligible for regular Trade program assistance and that a significant number of these NAFTA–TAA eligible workers currently elect to receive services under the regular Trade program.

Therefore, to keep up with this increased demand for regular Trade program related services, States may, where regular Trade program funds are not available (either the State does not have funds in its regular Trade account or has not received requested regular Trade funds from the National Office), use NAFTA–TAA program funds to provide training, job search and relocation services to dual eligible workers. The State may fund such services for dual eligible workers from NAFTA–TAA program funds until regular Trade program funds are available, at the first convenient break in training as determined by the State. For purposes of participant tracking on the 563 report, workers should be counted as a participant in the program from which the funding for their training, job search or relocation services is sourced.

The intent is to allow the States to effectively process the increasing number of NAFTA-impacted workers applying for assistance under the regular TAA program. This will ensure that a worker receives rapid assistance, including placement in training, regardless of the program from which the worker formally elects to receive services.

6. *Action Required.* State Administrators are requested to:

a. Convey the information in this directive to appropriate staff.

b. Request that Trade program staff review the information and ensure that appropriate arrangements are made with both program and resource allocation staff to implement these revised applicant processing procedures.

c. Encourage appropriate officials to review the present State TAA program funding and benefits delivery system to identify potential problem areas and ensure that regular Trade and NAFTA–TAA program funds are tracked and monitored in accordance with the information provided in this transmittal.

7. *Inquiries.* Inquiries should be directed to appropriate Regional Offices.

[FR Doc. 04–22920 Filed 10–12–04; 8:45 am]

BILLING CODE 4510–30–U

DEPARTMENT OF LABOR

Employment and Training Administration

Trade Adjustment Assistance Program: Training and Employment Guidance Letter Interpreting Federal Law

The Employment and Training Administration interprets federal law requirements pertaining to Trade Adjustment Assistance (TAA). These interpretations are issued in Training and Employment Guidance Letters (TEGLs) to the State Workforce Agencies. The TEGL described below is published in the **Federal Register** in order to inform the public.

TEGL 11–02, Change 1

TEGL 11–02, Change 1 advises states of the federal law requirements applicable to implementing reforms of the Trade Adjustment Assistance (TAA) program enacted by the TAA Reform Act of 2002.

The operating instructions in TEGL 11–02, Change 1 are issued to the states and the cooperating state workforce agencies (SWAs) as guidance provided by the Department of Labor (DOL) in its role as the principal in the TAA program. As agents of the Secretary of Labor, the states and cooperating SWAs may not vary from the operating instructions in TEGL 11–02, Change 1 without prior approval from DOL.

Pending the issuance of regulations implementing the provisions of the TAA Reform Act of 2002, the operating instructions in TEGL 11–02 and TEGL 11–02, Change 1 constitute the controlling guidance for the states and the cooperating SWAs in implementing and administering the Trade Act of 1974, as amended, pursuant to the agreements between the states and the Secretary of Labor under Section 239 of the Trade Act of 1974, as amended.

Changes to the TAA program operating instructions in TEGL 11–02, Change 1 focus on further explanation of requirements relating to eligibility deadlines and to the issuance of training waivers, and supplement the guidance issued in TEGL 11–02.

Dated: October 6, 2004.

Emily Stover DeRocco,

Assistant Secretary for Training and Employment.

Training and Employment Guidance Letter No. 11–02, Change 1

To: All State Workforce Agencies, All State Workforce Liaisons, All One-Stop Center System Leads.

From: Emily Stover DeRocco, Assistant Secretary.

Subject: Change 1 to the Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002.

1. *Purpose.* To provide guidance to State Workforce Agencies (SWAs) on training deadlines, issuing waivers to the Trade Adjustment Assistance (TAA) program training requirements, and additional information on implementing the TAA Reform Act of 2002.

2. *References.* The Trade Act of 1974, as amended (Pub. L. 93–618, as amended) (''the Trade Act''); the Trade Act of 2002 (Pub. L. 107–210) (''the 2002 amendments''); 20 CFR Part 617; Training and Employment Guidance Letter (TEGL) No. 11–02 (October 10, 2002); TEGL No. 20–02 (March 3, 2003); General Administration Letter (GAL) No. 7–94 (December 28, 1993); Unemployment Insurance Program Letter (UIPL) No. 24–03 and No. 33–03. The 2002 amendments to the TAA program are also known as the Trade Adjustment Assistance Reform Act of 2002.

3. *Clarification of Training Deadlines for Eligibility for Trade Readjustment Allowances (TRA).* The training deadlines requiring clarification include the following:

- ''8/16 week deadline'' for enrolling in training.
- 45-day extension of the 8/16 week deadline for extenuating circumstances.
- 210-day time limit for applying for training.

Section 114 of the 2002 amendments, which amended section 231(a)(5)(A) of the Trade Act, imposed a deadline by which a worker must be enrolled in approved training, or have a waiver of this requirement, in order to be eligible for TRA.

This deadline is either the last day of the 8th week after the week of issuance of the certification of eligibility covering the worker or the last day of the 16th week after the worker's most recent total qualifying separation, whichever is later (commonly referred to as the 8/16 week deadline). The ''8/16 week deadline'' applies to eligibility for all TRA, both basic and additional TRA. If a worker fails to meet the applicable 8/16 week deadline, then the worker is not eligible for any TRA (basic TRA or additional TRA, including TRA for remedial training) under the relevant certification. In many cases, the 8/16 week deadline for a worker will be reached while the worker is still receiving unemployment insurance (UI). Some workers are not aware that this deadline may apply before they exhaust their UI. The SWA is responsible for informing workers of these requirements. The SWA must also assist such workers in enrolling in an approved training program prior to the 8/16 week deadline, or issue the workers waivers prior to the 8/16 week deadline, if appropriate.

Under certain extenuating circumstances, the 8/16 week deadline for enrollment may be extended for up to 45 days. TEGL No. 11–02 explained the definition of ''extenuating circumstances.'' That definition applies and includes situations that could arise, such as when a worker has been enrolled in a training program that is abruptly cancelled, where a worker suffers injury or illness that adversely affects the worker's ability to enroll in a training program, or other events where the states can justify and document that the application of extenuating circumstances is warranted.

The 2002 amendments did not change the 210-day time limit applicable to additional TRA. Additional TRA, beyond basic TRA, may be paid to workers participating in approved training who meet all TRA eligibility requirements, including the 210-day deadline. This means, in order to be eligible for additional TRA, a worker must have filed a *bona fide* application for training with the SWA within 210 days of either the issuance of the certification covering the worker or the worker's most recent separation, whichever is later. This 210-day deadline applies to additional TRA, but not to remedial TRA that may be received by workers enrolled in remedial training.

SWAs should be mindful that the 210-day deadline may pass if a worker has a long-term waiver of the training requirement. This could happen if a worker (who lacks marketable skills) receives a waiver due to lack of training funds. For example, if a worker receives a waiver 16 weeks after the worker's most recent qualifying separation and that waiver remains in effect for the maximum 26 weeks, then a total of 42 weeks (294 days) might pass without the worker being required to be enrolled in approved training. If the worker does not file a *bona fide* application for training with the SWA during this 210-day period, then the worker is ineligible for additional TRA. Therefore, SWA's are responsible for ensuring that workers are informed of this deadline.

Issuance of a waiver before the 8/16 week deadline might occur while the worker is still receiving UI. In these instances, workers must meet the Extended Benefit work test requirement (except as provided in 20 CFR 617.11 (a)(2)(vi)(B)) as a condition of TRA.

4. *HCTC and Waivers.* All workers covered by TAA or NAFTA–TAA certified petitions who are receiving TRA, or would be receiving TRA except they have not exhausted their UI, may be eligible for the Health Coverage Tax Credit (HCTC) under the 2002 amendments. States are responsible for identifying and transmitting the names of

those individuals to the Internal Revenue Service's HCTC Program Office in accordance with instructions contained in UIPL No. 24–03. The HCTC Program Office is ultimately responsible for determining whether HCTC-eligible TAA recipients meet all other qualifying criteria for receipt of the HCTC.

If a worker is still on UI and seeking the HCTC, actions must be taken to ensure that all criteria for TRA eligibility are met as described in TEGL No. 11–02, including that the worker is enrolled in an approved training program, has completed an approved training program, or has received a written waiver of the training requirement.

A preliminary assessment of each trade affected worker's skills must be carried out to identify workers for whom immediate enrollment in training is appropriate. Except where such an assessment of a worker clearly indicates a need to enroll in training immediately, the Department of Labor believes it would generally be appropriate to approve a waiver request under the marketable skills condition if such a determination is made shortly after separation and the worker qualifies for such a waiver. This waiver would allow some period of job search and avoid removing some workers prematurely from the labor force and investing training resources that may not be necessary to helping a worker obtain reemployment. All waivers must be reevaluated every 30 days for the duration of the waiver period. If the waiver is issued on the basis of marketable skills, the reevaluation will take into account the reasons the individual has been unable to obtain employment during the job search. If the difficulty finding work is attributed to skill deficiencies, it may be appropriate to revoke the waiver and immediately enroll the worker in training.

It should be emphasized that waivers are not permitted under the NAFTA–TAA program. Therefore, workers covered by a NAFTA–TAA certification may only qualify for HCTC if the worker is receiving TRA or if the worker is enrolled in an approved training program, or has completed an approved training program, while still receiving UI and while satisfying the other TRA eligibility criteria found at 20 CFR 617.11.

5. *Extension of Waivers Beyond Six Months.* The discussion in sections 3 and 4 above cover cases that may require a determination on whether to issue a waiver of the training requirement before a worker's UI entitlement has expired. The TAA Reform Act of 2002 specifically limits the maximum duration of a waiver to six months, unless the Secretary determines otherwise (section 231(c)(2)(A) of the Trade Act). In the absence of such a determination by the Secretary, a waiver issued during a worker's UI period often will not cover the worker's entire entitlement to basic TRA. For example, a six-month waiver could expire before all UI is exhausted and basic TRA begins for a worker who receives a waiver in order to establish HCTC eligibility. This can occur when a worker is granted a six-month waiver eight weeks after separation from employment. Such a waiver could expire one month before maximum entitlement to UI compensation (for example, 26 weeks of UI and 13 weeks of Temporary Extended Unemployment Compensation (TEUC) and basic TRA (13 weeks) are exhausted).

The Department interprets the wording of section 231(c)(2)(A) to cover cases in which it may be necessary to issue a waiver to a worker before the worker actually begins to receive basic TRA. Therefore, the Department has determined that a state may extend a worker's waiver beyond six months in any case where it is necessary to cover the worker's full entitlement to basic TRA.

6. *Action Required.* States shall inform all appropriate staff of the contents of these instructions.

7. *Inquiries.* States should direct all inquiries to the appropriate ETA Regional Office.

[FR Doc. 04–22919 Filed 10–12–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Alternative Trade Adjustment Assistance Program: Training and Employment Guidance Letter Interpreting Federal Law

The Employment and Training Administration interprets federal law requirements pertaining to Alternative Trade Adjustment Assistance (ATAA). These interpretations are issued in Training and Employment Guidance Letters (TEGLs) to the state workforce agencies. The TEGL described below is published in the **Federal Register** in order to inform the public.

TEGL 2–03 TEGL 2–03 advises states of the federal law requirements applicable to implementing the Alternative Trade Adjustment Assistance (ATAA) program enacted by the TAA Reform Act of 2002.

The operating instructions in TEGL 2–03 are issued to the states and the cooperating state workforce agencies (SWAs) as guidance provided by the Department of Labor (DOL) in its role as the principal in the ATAA program. As agents of the Secretary of Labor, the states and cooperating SWAs may not vary from the operating instructions in TEGL 2–03 without prior approval from DOL.

Pending the issuance of regulations implementing the provisions of the TAA Reform Act of 2002, the operating instructions in TEGL 2–03 constitute the controlling guidance for the states and the cooperating SWAs in implementing and administering the ATAA program, pursuant to the agreements between the states and the Secretary of Labor under Section 239 of the Trade Act of 1974, as amended.

Dated: October 6, 2004.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

Employment and Training Administration
Advisory System
U.S. Department of Labor
Washington, DC 20210

Classification TAA

Employment and Training Administration
Advisory System
U.S. Department of Labor
Washington, DC 20210
Classification
TAA

Correspondence Symbol ONR

Date: August 6, 2003

Training and Employment Guidance Letter No. 2–03

To: All State Workforce Agencies; All State Workforce Liaisons /s/

From: Emily Stover DeRocco, Assistant Secretary

Subject: Interim Operating Instructions for Implementing the Alternative Trade Adjustment Assistance (ATAA) for Older Workers Program Established by the Trade Adjustment Assistance Reform Act of 2002

1. Purpose. To transmit interim operating instructions for implementing the Alternative Trade Adjustment Assistance (ATAA) for Older Workers Program established by the Trade Adjustment Assistance Reform Act of 2002.

2. References. The Trade Act of 1974 (Pub. L. 93–619, as amended), the Trade Act of 2002 (Pub. L. 107–210); the Workforce Investment Act of 1998; 20 CFR part 617; 29 CFR part 90; TEGL No. 11–02; UIPL No. 24–03. The amendments to the Trade Adjustment Assistance (''TAA'') program may also be referred to as the Trade Adjustment Assistance Reform Act of 2002 (''the Act'' or ''the Trade Act''). These amendments were included in Title I of the Trade Act of 2002.

3. Background. The Act establishes ATAA as an alternative assistance program for older workers certified eligible to apply for Trade Adjustment Assistance. This program is effective for petitions filed on or after August 6, 2003. The Act requires that petitioners who request that workers be certified for the ATAA program must do so at the time the petition is filed. ATAA is designed to allow TAA eligible workers for whom retraining may not be appropriate and who find reemployment to receive a wage subsidy to help bridge the salary gap between

their old and new employment. To receive the ATAA benefits, workers must be TAA and ATAA certified.

Under the ATAA program, workers in an eligible worker group who are at least 50 years of age and who obtain different, full-time employment within 26 weeks of separation from adversely-affected employment at wages less than those earned in the adversely-affected employment, may receive up to half of the difference between the worker's old wage and the new wage. The wage subsidy may be paid up to a maximum of $10,000 during a two-year eligibility period. To be eligible for the ATAA program, workers may not earn more than $50,000 per year in the new employment. In addition, the worker group must be certified as eligible to apply for TAA benefits and meet other ATAA eligibility criteria listed below. Workers who begin receiving payments under the ATAA program cannot receive other TAA benefits and services except for relocation allowances and the Health Coverage Tax Credit (HCTC).

4. Guiding Principle for ATAA Implementation. It is essential that the Department of Labor (''DOL''), State Workforce Agencies (''SWA''), local One-Stop Career Center partners and other mission critical partners work together to move trade-affected workers into new jobs as quickly and effectively as possible. To this end, the primary focus of ATAA reemployment benefits and services will be toward rapid, suitable and long-term employment for adversely affected older workers served by the program.

5. Operating Instructions. The operating instructions are being issued by DOL as the administrator of the TAA program. As agents of the Secretary of Labor, the states and cooperating state agencies may not vary from the operating instructions in this document without prior approval from DOL.

Pending the issuance of regulations implementing the provisions of the Act, these operating instructions constitute the controlling guidance to the states and the cooperating state agencies for implementing and administering the ATAA program, under the agreements between the states and the Secretary of Labor under Section 239 of the Act.

For purposes of these operating instructions, the following definitions will apply:

1. The ''Act'' or the ''Trade Act'' means the Trade Act of 1974, including the 2002 Amendments set forth in P.L. 107–210.

2. ''DOL'' means the U.S. Department of Labor.

3. ''ETA'' means the Employment and Training Administration.

4. ''Secretary'' means the Secretary of Labor.

5. ''TAA'' means the Trade Adjustment Assistance program for workers.

6. ''TRA'' means Trade Readjustment Allowances.

7. ''ATAA'' means Alternative Trade Adjustment Assistance program.

8. ''HCTC'' means Health Coverage Tax Credit.

9. ''WIA'' means the Workforce Investment Act of 1998.

10. ''SWA'' means State Workforce Agency.

11. ''DTAA'' means the Division of Trade Adjustment Assistance.

A. Petitioning Process

Workers who seek the benefits and services available under the ATAA program must file a regular TAA petition which includes a request that the worker group be considered for eligibility to apply for the ATAA program. Section 246(a)(3)(A)(i) of the Trade Act states, ''The Secretary shall provide the opportunity for a group of workers on whose behalf a petition is filed under section [221] to request that the group of workers be certified for the alternative trade adjustment assistance program under this section at the time the petition is filed.'' Petition forms that are currently available do not provide for such a request. Until revised petition forms are approved by the Office of Management and Budget (OMB) and become available for use, we have developed a supplemental form (attachment A) which may be used in the interim by petitioners seeking certification to apply for the ATAA program. This supplement may be provided by the states or may be accessed online at *http://www.doleta.gov/tradeact/petitions.cfm.* Petitioners are not required to use the supplemental form. However, the information requested on the supplemental form must be provided in order for a petitioner to be considered for eligibility under the ATAA program. Failure to submit the supplementary information with the petition means that DOL will not consider the worker group for certification under the ATAA program. A **Federal Register** Notice was published on July 7, 2003, seeking comments on the new form for the TAA program. Until the new form is approved, the process established for interim use will remain in effect.

In all other respects, the petition for TAA, together with the supplemental form for the ATAA program, must meet all of the requirements for all TAA petitions. These requirements are set forth in regulations at 29 CFR part 90. Additional requirements are set forth in Training and Employment Guidance Letter (TEGL) No. 11–02, ''Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002,'' issued on October 10, 2002, and published in the **Federal Register** on November 14, 2002 (67 FR 69029).

B. Investigation Process

In order to establish that petitioning workers are eligible to apply for the ATAA program, DOL must first determine that all of the criteria for a regular TAA certification, as described in TEGL 11–02, are met. In addition, DOL must find that three additional criteria are met for ATAA certification. These additional criteria are:

1. A significant number of adversely affected workers in the petitioning workers' firm are 50 years of age or older;

2. The adversely affected workers in the petitioning workers' firm possess job skills that are not easily transferable to other employment; and

3. The competitive conditions within the affected workers' industry are adverse.

Obtaining data and other information necessary to determine that all three of these criteria are satisfied will be part of the normal petition investigation process conducted by the Division of Trade Adjustment Assistance (DTAA). Workers may transmit data with their petition for any or all of these criteria, which will be considered by DTAA in making its determination.

For criterion 1, information will be obtained by telephone communication with the appropriate company official from the subject firm as part of DTAA's investigation. For this purpose, the term ''significant number'' means five percent of the adversely affected workforce or 50 workers, whichever is less, or at least three workers in a firm with less than 50 adversely affected workers.

For criterion 2, the necessary information will also be obtained through telephone communication with the appropriate company official at the subject firm. Specifically, the company official will be asked to confirm that the worker group for whom a petition has been filed possesses job skills that are not easily transferable to other employment, with a focus on what skills the worker possesses. Should the company official be unable to provide information as to whether the skills are easily transferable, the state (*e.g.*, Rapid Response or other appropriate unit) will be asked to furnish the assessment.

For criterion 3, information will be collected from government and industry association sources as part of DTAA's investigation process. Specifically, the information collected will be used to determine if: (a) The number of firms in the industry is declining; or (b) the conditions (such as declining production and/or employment) in the industry are such that the affected workers are not likely to find new employment within the industry; or (c) aggregate U.S. imports of products like or directly competitive with those produced in the industry are increasing.

C. Determination Process

Whenever petitioners seek a determination of eligibility to apply for the ATAA program, the determination document issued at the conclusion of the investigation will clearly state whether or not the petitioning workers are eligible to apply for the ATAA program. This statement shall appear directly after the statement of eligibility to apply for regular TAA.

Determinations of eligibility to apply for the ATAA program and for regular TAA, reached under the same petition, will be issued together in the same determination document.

Determinations of eligibility to apply for regular TAA and for the ATAA program, issued under the same petition, will apply to the same identifiable worker group.

Certifications issued based upon TAA petitions filed before August 6, 2003, can only be for eligibility to apply for regular TAA. No active certification of eligibility to apply for regular TAA will be amended to include certification of eligibility to apply for the ATAA program. However, if DTAA has not yet issued a determination of eligibility for TAA, the petitioner may withdraw the TAA petition and submit a new petition requesting both TAA and ATAA (which will create a new impact date, and, thus, may jeopardize the eligibility of certain workers who may have been included in the withdrawn petition). The date of issuance is considered the date on the determination document.

Requests for reconsiderations and/or judicial review of ATAA determinations are the same as under the regular petition process for TAA.

D. Rapid Response Activities

The implementation of the ATAA program provides additional opportunities for Trade Act coordinators and other local One-Stop Career Center partners to work more closely with state and local Rapid Response teams to enhance the provision of information and services to workers who have been or will be impacted by increased imports or shifts in production to other countries. The ATAA program provides an opportunity for adversely affected older workers who may not be interested in retraining to take full advantage of comprehensive reemployment services and assistance available through TAA, WIA and the One-Stop system.

The ATAA program is an integral part of an enhanced menu of reemployment services and assistance available to eligible individuals through the Act. State and local trade program staff should be working closely with Rapid Response teams and other local One-Stop Career Center system partners to ensure the dissemination of information regarding all aspects of the Trade Act program, including HCTC and ATAA, both prior to and following the notification of layoffs, petition filings and certifications. It is essential that timely and accurate information about the Trade Act program be provided to affected workers to facilitate more informed decision-making and to expedite their return to employment.

Rapid Response activities for potentially trade affected workers within the local One-Stop Career Center should include:

- Immediate and ongoing dissemination of information on TAA, HCTC, and ATAA, including early intervention measures prior to and following notices of layoff.
- Distribution of available TAA, HCTC, and ATAA posters, brochures, Web sites, fact sheets, desk aids, videos, and public service announcements.
- Presentations regarding TAA, HCTC, and ATAA to Chambers of Commerce and other employer organizations, organized labor, economic development agencies, state and local elected officials, community-based organizations, and faith-based organizations.
- Upon request, provision of information to DTAA investigators with respect to the transferability of worker job skills to other employment for determination of ATAA group eligibility.

E. Eligibility Requirements

After the issuance of a certification of eligibility to apply for TAA and ATAA and when the adversely affected worker is fully informed of the benefits and services available under the TAA and ATAA programs, the worker will need to consider the choice of benefits and services under one program or the other. If the worker's preferred option is the ATAA program, the worker should be encouraged to take advantage of reemployment services and assistance available to him/her with the goal of returning to work within 26 weeks of their qualifying separation in order to be eligible for ATAA. In making this choice, workers should avail themselves of assistance from local Trade Act coordinators and WIA employment managers.

While an adversely affected worker is seeking employment to qualify for the ATAA program, actions must be taken to ensure regular TAA deadlines are met and options are preserved. Section 231 of the Act imposed a deadline by which a worker must be enrolled in approved training, or have a waiver of this requirement, in order to be eligible for TRA. This deadline is either 8 weeks after the issuance of the relevant certification of eligibility to apply for TAA benefits or services or 16 weeks after the worker's most recent qualifying separation, whichever is later (commonly referred to as the 8/16 deadline). This 8/16 deadline applies to eligibility for all TRA, both basic and additional.

The state should assess whether a worker is entitled to a training waiver, prior to the 8/16 week deadline for applying for training, based on one of the waiver criteria described below, as appropriate, which preserves the worker's TRA eligibility if a job is not obtained within 26 weeks of the worker's qualifying separation. The waiver criteria are:

1. Recall.—The worker has been notified that the he/she will be recalled by the firm from which the separation occurred.

2. Marketable Skills.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

3. Retirement.—The worker is within 2 years of meeting all requirements for entitlement to either—

a. Old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et. seq.) (except for application therefore); or

b. A private pension sponsored by an employer or labor organization.

4. Health.—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability

for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

5. Enrollment Unavailable.—The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

6. Training Not Available.—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at reasonable cost, or no training funds are available.

All workers should be informed that, if they anticipate not being able to obtain a job within 26 weeks of their qualifying separation, they should contact their local One-Stop Career Center immediately, and consider seeking the TAA benefits, including training to which they are entitled. While ATAA participants are eligible for HCTC, they are only eligible once they are participating in the ATAA program and receiving a benefit under the program. Thus, if workers considering ATAA have not become reemployed and are in need of HCTC, the Trade Act coordinator should assess whether a training waiver might be appropriate under one of the enumerated criteria. As with all training waivers, any waivers issued should be reviewed every 30 days to determine their continued applicability. In cases where the waiver is no longer appropriate, it should be revoked.

To be eligible for ATAA, an individual must meet the following conditions at the time of reemployment:

1. Be at least age 50 at time of reemployment. The individual's age can be verified with a driver's license or other appropriate documentation.

2. Obtain reemployment by the last day of the 26th week after the worker's qualifying separation from the TAA/ATAA certified employment. This reemployment may be verified with a copy of the job offer letter or a check stub.

3. Must not be expected to earn more than $50,000 annually in gross wages (excluding overtime pay) from the reemployment. If a paycheck has not been issued at the time of application, the employer must submit a supporting statement indicating that annual wages will not exceed $50,000.

4. Be reemployed full-time as defined by the state law where the worker is employed. The verification will be conducted in the same manner as is used for determining UI benefits.

5. Cannot return to work to the employment from which the worker was separated. Thus, the worker cannot return to the same division/facility that he/she was separated from nor can the worker do the same or similar work for the employer that he/she was separated from in another division/facility.

The application for ATAA must be filed within two years of the first day of qualifying reemployment. For purposes of this application, and in order to establish the ATAA payment, wages at separation are defined as the annualized hourly rate at the time of the most recent separation, which is set forth in Section G of this TEGL, ''ATAA Payments.'' Wages at reemployment are defined as the annualized hourly rate at the time of reemployment, which is also set forth in Section G. In addition, the worker must indicate that a ''choice'' has been made and that she/he understands that she/he cannot subsequently switch to the TAA program once she/he begins receiving the ATAA supplement. Receipt of the initial ATAA payment represents the individual's decision with respect to choosing ATAA and voids the participant's rights to retraining, allowances and TRA. Correspondingly, once a worker has enrolled in training, he/she forfeits his/her right to ATAA participation.

The State TAA Coordinator will issue a written determination informing the ATAA applicant of eligibility for ATAA payments within 5 working days of receiving the worker's application for such benefits. If approved, the State TAA Coordinator will also notify the appropriate state payment unit and other appropriate component offices within the state. The ATAA applicant has the right to appeal a state determination which denies ATAA benefits in the same manner as provided for in state law for TRA determinations.

For purposes of the ATAA program, the eligibility determination date, which establishes the two-year period during which ATAA benefits can be paid, will be the date of the first qualifying reemployment.

F. Continuing Eligibility

Once approved for the ATAA program, individuals who continue to meet the eligibility criteria are paid ATAA benefits until a total of $10,000 in benefits has been received, or a period of two years has elapsed since their first qualifying reemployment, whichever occurs first. Nothing in the statute precludes an individual from working for different employers within this two-year period. Further, employment is not required to be consecutive. However, ATAA benefits are not payable during periods of unemployment (*i.e.*, one full week without wages). Changes in employment that do not encompass a period of unemployment will be handled during the state's ongoing review of each worker's ATAA status, as described below. In the event of a period of unemployment, workers will need to complete a new Individual Application for ATAA upon reemployment. The worker would be eligible for the remaining ATAA benefits to which he/she is entitled. The two-year eligibility period continues to run from the date of first qualifying reemployment.

In the event a worker has more than one job, the employment must, at a minimum, meet the definition of full-time work as defined by state law. If additional job(s) are obtained, the wages from this employment will be included in the calculation to determine whether the worker is expected to reach the $50,000 annual limit for reemployment wages.

Each certified worker for ATAA will need to visit a state or local office in person to provide information and determine initial individual eligibility for ATAA. If the individual is determined to be eligible for ATAA, the state will need to assess continuing eligibility for the ATAA program. The worker will need to provide verification of employment and wages that will be used to determine continuing eligibility for ATAA benefits on at least a monthly basis. The state can choose to have the worker come to the local office and provide documentation to the staff, or the state has the option to accept proof of continuing eligibility by mail, fax, or some other means to verify proof of employment and wages. However, the state may not use telephone certification in these instances.

In either alternative, the state must have documented verification of the individual worker's employment and wage status on at least a monthly basis. The information provided at the local level will need to be forwarded to the State TAA Coordinator for review and approval. Once the TAA Coordinator approves the information, the state payment unit, local office, and worker will be notified and the worker will receive equivalent payment for the preceding month on a weekly, biweekly, or other basis as determined by the state

as long as the calculated monthly allotment is not exceeded. The worker will receive at least a minimum monthly payment. Because the worker will receive the ATAA wage subsidy for the preceding period for which she/he has demonstrated eligibility, the worker will not receive payment until after the initial month has been verified by the TAA Coordinator.

With respect to HCTC, the SWAs are required to report ATAA recipients (workers who are receiving the ATAA wage subsidy) to the Internal Revenue Service (IRS) in the manner described in Unemployment Insurance Program Letter (UIPL) 24–03, dated April 14, 2003.

G. ATAA Payments

Section 246(a)(4) of the Trade Act provides that a State shall use the funds provided under section 241 to pay for a period not to exceed two years to a worker described in Section 246(a)(3)(B), 50 percent of the difference between:

(i) The wages received by the worker from reemployment; and

(ii) The wages received by the worker at the time of separation.

Section 246(a)(4) supplements an individual's wages for up to two years or $10,000, whichever occurs first, by an amount equal to 50 percent of the difference between the wages earned from the adversely affected employer and the new employment obtained after separation from adversely affected employment that is approved for ATAA payments.

An individual receiving this benefit may receive TAA relocation benefits and the HCTC, but is not eligible to receive any other benefits, including training, TRA payments, and job search allowances. The ATAA supplement shall cease in the event of one of the following:

- The individual's annualized wage, excluding the ATAA wage subsidy, is projected to exceed $50,000 a year.
- The individual has received $10,000 in ATAA benefits.
- The worker has reached the end of the two-year eligibility period.

The choice of payment unit for paying the ATAA wage subsidy is a state responsibility. However, the organizational placement of this payment by the state must meet Governmental Accounting Standards Board requirements. It is the responsibility of the SWA when calculating the ATAA payment to annualize the recipient's wages on a monthly basis to assure that the recipient's annual wages do not exceed $50,000. Annual wage calculations will include all jobs in which the worker is employed and constitute at least full-time employment as defined by the state. This may include any combination of full- and part-time work that meets or exceeds full-time employment.

Annualized wages at separation are defined as the annualized hourly rate at the time of the most recent qualifying separation. The annualized wages are computed by multiplying the worker's hourly rate received during the last full week of his/her employment by the number of hours the individual worked during the last full week of employment and multiplying that number by 52. Overtime wages and hours are excluded from the calculation. Annualized wages at reemployment are defined similarly to annualized wages at separation, except that the hourly rate and hours worked must reflect those of the first full week of reemployment.

The calculated monthly allotment will be derived as follows:

Wage Calculation Methodology

Annualized Separation Wages minus Annualized Reemployment Wages divided by 2 equals 50% of the difference between the two periods of wages.

50% of the difference between the two periods of wages divided by 12 equals the monthly ATAA wage subsidy.

If, as a result of the monthly verification exercise, the participant's hourly wage and/or hours are determined to have changed in such a way as to affect the ATAA wage subsidy, the state will repeat the above calculation and adjust the ATAA payment accordingly.

The ATAA wage subsidy will be paid on a weekly, biweekly, or other payment frequency not to exceed monthly, as established by the state, ensuring that the total payment does not exceed the $10,000 maximum over a two-year period.

SWAs will follow the current interstate arrangement for the regular UI program regarding the agent/liable state relationship for the filing of ATAA claims.

H. Overpayments

The determination of ''annualized wages'' is made prospectively. An individual is deemed to have met the ''earns not more than $50,000 a year in wages from reemployment'' requirement set forth in section 246 for a given month if the monthly determination of annualized wages is accurate and complete at the time it is made. No overpayment determinations need be made for that month based on projections for the yearly annual wage that later changed based on information that was not available at the time that the monthly determination was made. Monthly payments derived from the annualized wage projection based on complete and accurate information at the time will be considered valid payments that the individual was entitled to, and are not considered overpayments.

In instances where there are overpayments, due to error or fraud, for example, the state should adhere to the overpayment provisions of the Trade Act regulations at 20 CFR 617.55.

I. Documentation of Benefit History

It is suggested that the state maintain a manual or automated benefit history for the ATAA recipient for a period of no less than three years for audit purposes. It is suggested that the benefit history include the following:

- Claimant name.
- Social Security Number.
- Certified TAA Petition Number.
- Reemployment hourly wages and hours worked per week.
- Weekly Reemployment Earnings (or biweekly or other employer payment schedule).
- Address changes including phone numbers.
- Status of full time work each week.
- Date of birth.
- Separation hourly wages and hours worked per week.
- Separation wages with the Adversely Affected Employer.
- Projected wage with the new employer.
- Weekly benefit amounts.
- Cumulative payments made under the ATAA Program.
- Individuals remaining balance under the $10,000 maximum amount time remaining under the two-year eligibility period.

J. Funding

ATAA benefits for FY 2003 will be paid from the FY 2003 Federal Unemployment Benefit Account (FUBA) from which TRA benefits are paid.

ATAA administrative costs, relating to payment of ATAA benefits, are paid from funds appropriated for TAA administration under the State Unemployment Insurance and Employment Services Operations (SUIESO) account which supports TRA payments. Creating the list of ATAA recipients for HCTC eligibility must be funded in the same manner as creation of the list of eligible TAA recipients.

No benefit payments may be made by a state after the date that is 5 years from

the date on which the state implements an ATAA program (the ''termination date'') except for workers who are receiving payments under the ATAA program at the time of the termination date. Such workers will continue to receive payments throughout the worker's two-year eligibility period.

K. Reporting Requirements

In order to monitor and manage the ATAA program for results, a quarterly activity report will be required. This report has been designed and will be provided to OMB in the near future for review and approval. Once approval is obtained, implementation instructions will be issued. Our intention is to have the report submitted via a Web-based interface.

6. Action Required. States must ensure that the state workforce investment system is able to implement the ATAA program and make payments to eligible program participants for petitions filed on or after August 6, 2003.

7. Inquiries. States should direct all inquiries to the appropriate ETA Regional Office.

Attachment A: Request for Determination of Eligibility to Apply for the Alternative Trade Adjustment Assistance (ATAA) Program for Older Workers

Attachment A

OMB APPROVAL NO. 1205–0442
Expiration date: 10/31/2003
REQUEST FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR THE ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE (ATAA) PROGRAM FOR OLDER WORKERS

Suggested Supplement to Petition for Trade Adjustment Assistance

In addition to a determination of eligibility to apply for regular TAA, do the petitioners seek a determination of eligibility to apply for the Alternative Trade Adjustment Assistance (ATAA) Older Workers Program for workers 50 years of age or older? If so, check ''yes'' below and attach to the Petition for Trade Adjustment Assistance.

Yes ____

If you do not check ''yes'' above, the petitioning worker group will not be considered for eligibility certification under the ATAA program. If you do check yes, and the worker group is determined to be eligible for the ATAA program, the individual workers within the certified worker group who meet individual ATAA eligibility criteria will have the option of choosing ATAA or TAA benefits and services.

Criterion that must be met for group certification include:

1. A significant number of adversely affected workers in the petitioning workers' firm are 50 years of age or older;

2. The adversely affected workers in the petitioning workers' firm possess job skills that are not easily transferable to other employment; and

3. The competitive conditions within the adversely affected workers industry are adverse.

Additional criteria that must be met for individual eligibility include:

1. A worker must be at least 50 years of age

2. The worker must obtain different, full-time reemployment within 26 weeks of separation from adversely affected employment

3. Reemployment wages on an average annual basis must be less than wages earned in the adversely affected employment

4. The worker may not earn more than $50,000 per year in new employment

5. The worker must be certified as eligible to apply for TAA benefits

These reporting requirements are approved under the Paperwork Reduction Act of 1995, OMB Control No. 1205–0442, expiring 10/31/2003. Persons are not required to respond to this collection of information unless it displays a currently valid OMB number. Public reporting burden for this collection of information is estimated to average 60 seconds per response, including the time for reviewing instructions, searching existing data sources, gathering and reviewing the collection of information. Respondent's obligation to reply is required to obtain or retain benefits. (Section 246 of the Trade Act of 1974, as amended by the Trade Act of 2002). Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, send them to the U.S. Department of Labor, Division of Trade Adjustment Assistance, Room c–5311, 200 Constitution Ave., NW, Washington, D.C. 20210 (Paperwork Reduction Project 1205–0442).

[FR Doc. E4–2595 Filed 10–12–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health: Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the Federal Advisory Council on Occupational Safety and Health (FACOSH), established under Section 1–5 of Executive Order 12196 on February 6, 1980, published in the **Federal Register,** February 27, 1980 (45 FR 1279).

FACOSH will meet on November 8, 2004 starting at 1:30 p.m., in Room N–3437 A/B/C of the Department of Labor Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210. The meeting will adjourn at approximately 4:30 p.m., and will be open to the public. Anyone wishing to attend this meeting must exhibit photo identification to security personnel upon entering the building.

Agenda items will include:

1. Call to Order
2. Old Business
   a. Federal Recordkeeping Change
   b. SHARE Initiative
   c. Field Safety and Health Council Awards Ceremony and Training Conference
   d. Federal Agency Training Week
   e. VPP/Partnerships

New Business

a. Seatbelt Safety

3. Adjournment

Written data, views, or comments may be submitted, preferably with 20 copies, to the Office of Federal Agency Programs at the address provided below. All such submissions received by November 1, 2004 will be provided to the Federal Advisory Council members and included in the meeting record.

Anyone wishing to make an oral presentation should notify the Office of Federal Agency Programs by the close of business on November 3, 2004. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation's content. Those who request the opportunity to address the Federal Advisory Council may be allowed to speak, as time permits, at the discretion of the Chairperson. Individuals with disabilities who need special accommodations and wish to attend the meeting should contact Thomas Marple at the address indicated below.

For additional information, please contact Thomas K. Marple, Acting

Director, Office of Federal Agency Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3622, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 693–2122. An official record of the meeting will be available for public inspection at the Office of Federal Agency Programs.

Signed at Washington, DC, this 5th day of October 2004.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 04–22910 Filed 10–12–04; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04–111]

NASA Space Science Advisory Committee, Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Meeting.

SUMMARY: The National Aeronautics and Space Administration announces a meeting of the NASA Space Science Advisory Committee (SScAC), Solar System Exploration Subcommittee (SSES).

DATES: Thursday, October 21, 2004, 8:30 a.m. to 5:30 p.m., and Friday, October 22, 2004, 8:30 a.m. to 12:30 p.m.

ADDRESSES: NASA Headquarters, Room 9H40, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Michael H. New, Science Mission Directorate, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–1766, *michael.h.new@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Status of Solar System Exploration
- Status of Mars Exploration Program
- Strategic Roadmaps Review Discussion
- Transformation and the Subcommittee Structure

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information no less than 3 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information in advance by contacting Marian Norris via email at *mnorris@nasa.gov* or by telephone at (202) 358–4452. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

R. Andrew Falcon,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 04–22973 Filed 10–12–04; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Presidential Libraries Meeting

Notice is hereby given that the Advisory Committee on Presidential Libraries will meet on October 19, 2004, from 2 p.m. to 4:30 p.m., in the Washington Conference Room, at the National Archives Building 8th and Pennsylvania Avenue, NW., Washington, DC.

The agenda for the meeting will be the Presidential library program and a discussion of critical issues.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Richard L. Claypoole at (301) 837–3250.

This notice is published less than 15 calendar days before the meeting because of scheduling difficulties.

Dated: October 8, 2004.

Patrice Murray,

Alternate Committee Management Officer.

[FR Doc. 04–23030 Filed 10–12–04; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that six meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows:

Presenting (Access to Artistic Excellence): November 8–9, 2004, Room 714. This meeting, from 9 a.m. to 5:30 p.m. on November 8th, and from 9 a.m. to 4 p.m. on November 9th, will be closed.

Media Arts (Access to Artistic Excellence): November 8–10, 2004, Room 716. This meeting, from 9 a.m. to 6 p.m. on November 8th and 9th, and from 9 a.m. to 5 p.m. on November 10th, will be closed.

Theater (Access to Artistic Excellence): November 8–10, 2004, Room 730. A portion of this meeting, from 2 p.m. to 3:15 p.m. on November 10th, will be for policy discussion and will be open to the public. The remainder of the meeting, from 9:30 a.m. to 6 p.m. on November 8th, from 9:30 a.m. to 6:30 p.m. on November 9th, and from 9:30 a.m. to 2 p.m. and 3:15 p.m. to 5 p.m. on November 10th, will be closed.

Arts Education (Learning in the Arts for Children & Youth, Panel D1): November 22, 2004, Room 716. A portion of this meeting, from 4:30 p.m. to 5 p.m., will be for policy discussion and will be open to the public. The remainder of the meeting, from 8:30 a.m. to 4:30 p.m. and 5 p.m. to 5:30 p.m., will be closed.

Arts Education (Learning in the Arts for Children & Youth, Panel C2): November 29–30, 2004, Room 714). A portion of this meeting, from 4:15 p.m. to 4:45 p.m. on November 30th, will be for policy discussion and will be open to the public. The remainder of the meeting, from 9 a.m. to 6 p.m. on November 29th, and from 9 a.m. to 4:15 p.m. and 4:45 p.m. to 5:30 p.m. on November 30th, will be closed.

Arts Education (Learning in the Arts for Children & Youth, Panel C3): December 1, 2004, Room 714. A portion of this meeting, from 4:45 p.m. to 5:15 p.m., will be for policy discussion and will be open to the public. The remainder of the meeting, from 8:30 a.m. to 4:45 p.m. and 5:15 p.m. to 5:45 p.m., will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of April 14, 2004, these sessions will be closed to the public pursuant to subsection (c)(6) of 5 U.S.C. 552b.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: October 6, 2004.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 04–22912 Filed 10–12–04; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On August 9, 2004 and September 2, 2004, the National Science Foundation published a notice in the **Federal Register** of a permit application received. Permits were issued on October 5, 2004 to:

Scott Borg—Permit No. 2005–011.

Bruce C. Sidell—Permit No. 2005–015.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 04–22972 Filed 10–12–04; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of October 11, 18, 25, November 1, 8, 15, 2004

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland

STATUS: Public and Closed

MATTERS TO BE CONSIDERED:

Week of October 11, 2004

9:30 a.m. Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: Claudia Craig, 30–415–7276)

This meeting will be webcast live at the Web address *www.nrc.gov.*

1:30 p.m. Discussion of Intragovernmental Issues (Closed—Ex. 1 & 9)

Week of October 18, 2004–Tentative

There are no meetings scheduled for the Week of October 18, 2004

Week of October 25, 2004—Tentative

There are no meeting scheduled for the Week of October 25, 2004

Week of November 1, 2004—Tentative

There are no meetings scheduled for the Week of November 1, 2004

Week of November 8, 2004—Tentative

Monday, November 8, 2004

2 p.m. Briefing on Plant Aging and Material Degradation Issues (Public Meeting) (Contact: Steve Koenick, 301–415–1239)

This meeting will be webcast live at the Web address *www.nrc.gov.*

Tuesday, November 9, 2004

9:30 a.m. Briefing on Reactor Safety and Licensing Activities (Public Meeting) (Contact: Steve Koenick, 301–415–1239)

This meeting will be webcast live at the Web address *www.nrc.gov.*

Week of November 15, 2004—Tentative

Tuesday, November 16, 2004

9:30 a.m. Briefing on Threat Environment Assessment (Closed—Ex. 1)

Wednesday, November 17, 2004

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Dave Gamberoni, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at 301–415–7080, TDD: 301–4152100, or by e-mail at *aks@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a cast-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

October 7, 2004.

Dave Gamberoni,

Office of the Secretary.

[FR Doc. 04–23003 Filed 10–8–04; 9:50 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Power and Conservation Planning Council Power Plan Draft Amendments

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power and Conservation Council; Council).

ACTION: Notice of availability of Draft Fifth Northwest Conservation and Electric Power Plan.

SUMMARY: Following the mandate set out in the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (U.S.C. 839 *et seq.*) (the Act), in April 1983 the Council adopted a regional power plan, the Northwest Conservation and Electric Power Plan (the plan). The plan was completely amended in 1986. Although the Act requires the Council to review the plan at least every five years, the Council has taken up certain parts of the plan more often, to respond to ongoing changes in the adequacy,

efficiency, reliability and affordability of electric power in the region and to incorporate the most recent technology and analysis. The Council amended the plan in 1989 by publishing the 1989 Supplement to the 1986 Power Plan, updating certain technical data. In 1991 and 1998, the Council adopted complete amendments of the plan. Review of the plan began in 2002 and in September 2004, the Council released for public comment the Draft Fifth Power Plan. Hearings in each of the four Northwest States will be scheduled during the comment period, as required by the Act.

SUPPLEMENTARY INFORMATION: With the draft Fifth Power Plan, as with the First Power Plan, the Council responds to the impacts of a regional electric power crisis. The draft plan builds on the lessons of the Western electricity crisis of 2000 and 2001 and recommends actions the Council believes will help the region reduce the risks of an uncertain future and secure an adequate, efficient, economical, and reliable power supply.

The draft plan meets the requirements of the Act, which specifies the components the plan is to have. The Act requires the plan to include among other elements, an energy conservation program, a recommendation for research and development; a methodology for determining quantifiable environmental costs and benefits; a 20-year demand forecast; a forecast of power resources that the Bonneville Power Administration will need to meet its obligations; an analysis of reserve and reserve reliability requirements; and a surcharge methodology. The plan also includes the Council's Columbia River Basin Fish and Wildlife Program, developed pursuant to other procedural requirements under the Act.

The Council will give notice of opportunities for oral comment at hearings throughout the Northwest both in mailed notices and on its Web site. Close of comment for written comments is 5 p.m. Friday, November 19, 2004. The Council also may hold consultations on the draft plan during the public comment period.

FOR FURTHER INFORMATION CONTACT: If you would like a copy of the Draft Fifth Power Plan, please contact the Council's central office and ask for Council Document 2004–12. The Council's address is 851 SW., Sixth Avenue, Suite 1100, Portland, Oregon 97204. The Council's telephone numbers are 503–222–5161, and 800–452–5161; the Council's FAX is 503–820–2370. The Draft Fifth Power Plan is also found on the Council's Web site: *http://www.nwcouncil.org.*

If you are submitting comments on the draft plan, please note prominently that you are commenting on Council Document 2004–12. Comments may be submitted by mail, by facsimile transmission (FAX), or by electronic mail at: *comments@nwcouncil.org.*

Stephen L. Crow,

Executive Director.

[FR Doc. 04–22909 Filed 10–12–04; 8:45 am]

BILLING CODE 7905–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a Currently Approved Information Collection: RI 98–7

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for review of a currently approved information collection. RI 98–7, We Need Important Information About Your Eligibility for Social Security Disability Benefits, is used by OPM to verify receipt of Social Security Administration (SSA) disability benefits, to lessen or avoid overpayment to Federal Employees Retirement System (FERS) disability retirees. It notifies the annuitant of the responsibility to notify OPM if SSA benefits begin and the overpayment that will occur with the receipt of both benefits.

Approximately 3,000 RI 98–7 forms will be completed annually. The form takes approximately 5 minutes to complete. The annual burden is 250 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via e-mail to *mbtoomey@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3540;

and

Joseph F. Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Cyrus S. Benson, Team Leader, Publications Team, Administrative Services Branch, (202) 606–0623.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–22897 Filed 10–12–04; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a Revised Information Collection: RI 25–51

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for review of a revised information collection. RI 25–51, Civil Service Retirement System (CSRS) Survivor Annuitant Express Pay Application for Death Benefits, will be used by the Civil Service Retirement System solely to pay benefits to the widow(er) of an annuitant. This application is intended for use in immediately authorizing payments to an annuitant's widow or widower, based on the report of death, when our records show the decedent elected to provide benefits for the applicant.

Approximately 34,800 RI 25–51 forms are completed annually. The form takes approximately 30 minutes to complete. The annual burden is 17,400 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via e-mail to *mbtoomey@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Chief Operations Support Group, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street,

NW., Room 3305, Washington, DC 20415–3540;

and

Joseph F. Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Cyrus S. Benson, Team Leader, Publications Team, Support Group, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–22898 Filed 10–12–04; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50495; File No. PCAOB–2004–07]

Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on Conforming Amendments to PCAOB Interim Standards Resulting From the Adoption of PCAOB Auditing Standard No. 2, ''An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements''

October 5, 2004.

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the ''Act''), notice is hereby given that on September 16, 2004, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''Commission'' or the ''SEC'') the proposed rule described in Items I and II below, which items have been prepared by the Board and are presented here in the form submitted by the Board. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rule

On September 15, 2004, the Board adopted *Conforming Amendments to PCAOB Interim Standards Resulting from the Adoption of PCAOB Auditing Standard No. 2,* ''An Audit Of Internal Control Over Financial Reporting Performed In Conjunction With An Audit of Financial Statements'' (''the proposed rules''). The proposed rule text is set out as follows:

Conforming Amendments to PCAOB Interim Standards Resulting from the Adoption of PCAOB Auditing Standard No. 2, ''An Audit Of Internal Control Over Financial Reporting Performed In Conjunction With An Audit Of Financial Statements''

Auditing Standards

AU Sec. 310, ''Appointment of the Independent Auditor''

Statement on Auditing Standards (''SAS'') No. 1, ''Codification of Auditing Standards and Procedures,'' AU sec. 310, ''Appointment of the Independent Auditor,'' as amended by SAS No. 45, ''Omnibus Statement on Auditing Standards-1983,'' SAS No. 83, ''Establishing an Understanding With the Client,'' and SAS No. 89, ''Audit Adjustments'' (AU sec. 310, ''Appointment of the Independent Auditor''), is amended as follows:

a. The first sentence of paragraph .06 is amended to read as follows: An understanding with the client generally includes the following matters.

b. The first bullet point of paragraph .06 is amended to read as follows: The objective of the audit is:

• *Integrated audit of financial statements and internal control over financial reporting:* The expression of an opinion on both management's assessment of internal control over financial reporting and on the financial statements.

• *Audit of financial statements:* The expression of an opinion on the financial statements.

c. The third bullet point of paragraph .06 is amended to read as follows: Management is responsible for establishing and maintaining effective internal control over financial reporting. In an integrated audit of financial statements and internal control over financial reporting, an auditor is required to communicate, in writing, to management and the audit committee that the audit of internal control over financial reporting cannot be satisfactorily completed and that he or she is required to disclaim an opinion if management has not:

• Accepted responsibility for the effectiveness of the company's internal control over financial reporting.

• Evaluated the effectiveness of the company's internal control over financial reporting using suitable control criteria,

• Supported its evaluation with sufficient evidence, including documentation, and

• Presented a written assessment of the effectiveness of the company's internal control over financial reporting as of the end of the company's most recent fiscal year.

d. The seventh bullet point of paragraph .06 is amended to read as follows: The auditor is responsible for conducting the audit in accordance with the standards of the Public Company Accounting Oversight Board. Those standards require that the auditor:

• *Integrated audit of financial statements and internal control over financial reporting:* Obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud, and whether management's assessment of the effectiveness of the company's internal control over financial reporting is fairly stated in all material respects. Accordingly, there is some risk that a material misstatement of the financial statements or a material weakness in internal control over financial reporting would remain undetected. Although not absolute assurance, reasonable assurance is, nevertheless, a high level of assurance. Also, an integrated audit is not designed to detect error or fraud that is immaterial to the financial statements or deficiencies in internal control over financial reporting that, individually or in combination, are less severe than a material weakness. If, for any reason, the auditor is unable to complete the audit or is unable to form or has not formed an opinion, he or she may decline to express an opinion or decline to issue a report as a result of the engagement.

• *Audit of financial statements:* Obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. Accordingly, there is some risk that a material misstatement would remain undetected. Although not absolute assurance, reasonable assurance is, nevertheless, a high level of assurance. Also, a financial statement audit is not designed to detect error or fraud that is immaterial to the financial statements. If, for any reason, the auditor is unable to complete the audit or is unable to form or has not formed an opinion, he or she may decline to express an opinion or decline to issue a report as a result of the engagement.

e. The eighth bullet point of paragraph .06 is amended to read as follows:

An audit includes:

• *Integrated audit of financial statements and internal control over financial reporting:* Planning and performing the audit to obtain reasonable assurance about whether the company maintained, in all material respects, effective internal control over financial reporting as of the date

specified in management's assessment. The auditor is also responsible for obtaining an understanding of internal control sufficient to plan the financial statement audit and to determine the nature, timing, and extent of audit procedures to be performed. The auditor is also responsible for communicating in writing:

- To the audit committee—all significant deficiencies and material weaknesses identified during the audit.
- To management—all internal control deficiencies identified during the audit and not previously communicated in writing by the auditor or by others, including internal auditors or others inside or outside the company.
- To the board of directors—any specific significant deficiency or material weakness identified because the auditor concludes that the audit committee's oversight of the company's external financial reporting and internal control over financial reporting is ineffective.
- *Audit of financial statements:* Obtaining an understanding of internal control sufficient to plan the audit and to determine the nature, timing, and extent of audit procedures to be performed. An audit is not designed to provide assurance on internal control or to identify internal control deficiencies. However, the auditor is responsible for communicating in writing:
- To the audit committee—all significant deficiencies and material weaknesses identified during the audit.
- To the board of directors—if the auditor becomes aware that the oversight of the company's external financial reporting and internal control over financial reporting by the company's audit committee is ineffective, that specific significant deficiency or material weakness.

AU Sec. 311, ''Planning and Supervision''

SAS No. 22, ''Planning and Supervision,'' as amended by SAS No. 47, ''Audit Risk and Materiality in Conducting an Audit,'' SAS No. 48, ''The Effects of Computer Processing on the Audit of Financial Statements,'' and SAS No. 77, ''Amendments to Statements on Auditing Standards No. 22, 'Planning and Supervision,' No. 59, 'The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern,' No. 62, 'Special Reports''' (AU sec. 311, ''Planning and Supervision''), is amended by adding the following note after paragraph 1: Note:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraph 39 of PCAOB Auditing Standard No. 2 regarding planning considerations in addition to the planning considerations set forth in this section.

AU Sec. 312, ''Audit Risk and Materiality in Conducting an Audit''

SAS No. 47, ''Audit Risk and Materiality in Conducting an Audit,'' as amended by SAS No. 82, ''Consideration of Fraud in a Financial Statement Audit,'' SAS No. 96, ''Audit Documentation,'' and SAS No. 98, ''Omnibus Statement on Auditing Standards—2002'' (AU sec. 312, ''Audit Risk and Materiality in Conducting an Audit''), is amended as follows:

a. The following note is added after paragraph 3.

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 22–23 of PCAOB Auditing Standard No. 2 regarding materiality considerations.

b. The following note is added after paragraph 5.

Note: An integrated audit of financial statements and internal control over financial reporting is not designed to detect deficiencies in internal control over financial reporting that, individually or in the aggregate, are less severe than a material weakness.

c. The following note is added after paragraph 7.

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 24–26 of PCAOB Auditing Standard No. 2 regarding fraud considerations.

d. The following note is added after paragraph 12.

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 22–23 and 39 of PCAOB Auditing Standard No. 2 regarding materiality and planning considerations, respectively.

e. The following note is added after paragraph 18.

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to Appendix B, ''Additional Performance Requirements and Directions; Extent-of-Testing Examples,'' of PCAOB Auditing Standard No. 2 for considerations when a company has multiple locations or business units.

f. The following note is added after paragraph 30.

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 147–149 of PCAOB Auditing Standard No. 2 regarding tests of controls.

AU Sec. 313, ''Substantive Tests Prior to the Balance-Sheet Date''

SAS No. 45, ''Omnibus Statement on Auditing Standards—1983'' (AU sec. 313, ''Substantive Tests Prior to the Balance-Sheet Date''), is amended by adding the following note after paragraph 1:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 98–103 of PCAOB Auditing Standard No. 2 regarding timing of tests of controls.

AU Sec. 316, ''Consideration of Fraud in a Financial Statement Audit''

SAS No. 99, ''Consideration of Fraud in a Financial Statement Audit'' (AU sec. 316, ''Consideration of Fraud in a Financial Statement Audit''), is amended as follows:

a. The following note is added after paragraph 1:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 24–26 of PCAOB Auditing Standard No. 2 regarding fraud considerations, in addition to the fraud consideration set forth in this section.

b. In paragraph 80, the phrase ''the auditor should consider whether these risks represent reportable conditions relating to the entity's internal control that should be communicated to senior management and the audit committee'' is replaced by ''the auditor should consider whether these risks represent significant deficiencies that must be communicated to senior management and the audit committee'' and the reference to section 325, ''Communication of Internal Control Related Matters Noted in an Audit,'' paragraph .04 is replaced by the reference to section 325, ''Communications About Control Deficiencies in An Audit of Financial Statements,'' paragraph 4.

AU Sec. 319, ''Consideration of Internal Control in a Financial Statement Audit''

SAS No. 55, ''Consideration of Internal Control in a Financial Statement Audit,'' as amended by SAS No. 78, ''Consideration of Internal Control in a Financial Statement Audit: An Amendment of Statement on Auditing Standards No. 55,'' and SAS No. 94, ''The Effect of Information Technology on the Auditor's Consideration of Internal Control in a Financial Statement Audit'' (AU sec. 319, ''Consideration of Internal Control in a Financial Statement Audit''), is amended as follows:

a. In paragraph 2, the term ''assertions'' is replaced by the term ''relevant assertions.''

b. The following sentence is added at the end of paragraph 2: Regardless of the assessed level of control risk, the auditor should perform substantive procedures for all relevant assertions related to all significant accounts and disclosures in the financial statements.

c. The following note is added after paragraph 2:

Note: Refer to paragraphs 68–70 of PCAOB Auditing Standard No. 2 for discussion of identifying relevant financial statement assertions.

d. The following note is added after paragraph 9:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to Appendix B, ''Additional Performance Requirements and Directions; Extent-of-Testing Examples,'' of PCAOB Auditing Standard No. 2 for discussion of considerations when a company has multiple locations or business units.

e. The following note is added after paragraph 42:

Note: For purposes of evaluating the effectiveness of internal control over financial reporting, the auditor's understanding of control activities encompasses a broader range of accounts and disclosures than what is normally obtained in a financial statement audit.

f. The following note is added after paragraph 65:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, if the auditor assesses control risk as other than low for certain assertions or significant accounts, the auditor should document the reasons for that conclusion.

g. The following note is added after paragraph 83:

Note: In an integrated audit of financial statements and internal control over financial reporting, PCAOB Auditing Standard No. 2 states, in part, that ''If, however, the auditor assesses control risk as other than low for certain assertions or significant accounts, the auditor should document the reasons for that conclusion.'' Accordingly, if control risk is assessed at the maximum level, the auditor should document the basis for that conclusion. Refer to paragraphs 159–161 of PCAOB Auditing Standard No. 2 for additional information regarding documentation requirements.

h. The following note is added after paragraph 97:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 104–105 of PCAOB Auditing Standard No. 2 for discussion on the extent of tests of controls.

i. The last sentence of paragraph 107 is replaced with the following sentence:

Consequently, regardless of the assessed level of control risk, the auditor should perform substantive procedures for all relevant assertions related to all significant accounts and disclosures in the financial statements.

AU Sec. 322, ''The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements''

SAS No. 65, ''The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements'' (AU sec. 322, ''The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements''), is amended as follows:

a. The following note is added after paragraph 1:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 108–126 of PCAOB Auditing Standard No. 2 for discussion on using the work of others to alter the nature, timing, and extent of the work that otherwise would have been performed to test controls.

b. The second sentence of paragraph 16 is replaced with the following sentence:

The auditor assesses control risk for each of the relevant financial statement assertions related to all significant accounts and disclosures in the financial statements and performs tests of controls to support assessments below the maximum.

c. The following note is added after paragraph 20:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 112–116 of PCAOB Auditing Standard No. 2 regarding evaluating the nature of controls subjected to the work of others.

d. The following note is added after paragraph 22:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraph 122 of PCAOB Auditing Standard No. 2 regarding assessing the interrelationship of the nature of the controls and the competence and objectivity of those who performed the work.

AU Sec. 324, ''Service Organizations''

SAS No. 70, ''Service Organizations,'' as amended by SAS No. 78, ''Consideration of Internal Control in a Financial Statement Audit: An Amendment to Statement on Auditing Standard No. 55,'' SAS No. 88, ''Service Organizations and Reporting on Consistency,'' and SAS No. 98, ''Omnibus Statement on Auditing Standards—2002'' (AU sec. 324, ''Service Organizations''), is amended as follows:

a. The following note is added after paragraph 1:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs B18–B29 of Appendix B, ''Additional Performance Requirements and Directions; Extent-of-Testing Examples,'' in PCAOB Auditing Standard No. 2 regarding the use of service organizations.

b. In paragraph 20, the term ''reportable conditions'' is replaced by the term ''significant deficiencies'' and the reference to section 325, ''Communication of Internal Control Related Matters Noted in an Audit,'' is replaced by the reference to section 325, ''Communications About Control Deficiencies in An Audit of Financial Statements.''

AU Sec. 325, ''Communication of Internal Control Related Matters Noted in an Audit''

SAS No. 60, ''Communication of Internal Control Related Matters Noted in an Audit,'' as amended by SAS No. 78, ''Consideration of Internal Control in a Financial Statement Audit: An Amendment to Statement on Auditing Standards No. 55,'' and SAS No. 87, ''Restricting the Use of an Auditor's Report'' (AU Sec. 325, ''Communication of Internal Control Related Matters Noted in an Audit''), is superseded.

• *In an integrated audit of financial statements and internal control over financial reporting,* SAS No. 60, as amended, is superseded by paragraphs 207–214 of PCAOB Auditing Standard No. 2.

• *In an audit of financial statements only,* SAS No. 60, as amended, is superseded by the following paragraphs.

Communications About Control Deficiencies in an Audit of Financial Statements

1. In an audit of financial statements, the auditor may identify deficiencies in the company's internal control over financial reporting. A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis.

• A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an

existing control is not properly designed so that, even if the control operates as designed, the control objective is not always met.

• A deficiency in operation exists when a properly designed control does not operate as designed or when the person performing the control does not possess the necessary authority or qualifications to perform the control effectively.

2. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the company's ability to initiate, authorize, record, process, or report external financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the company's annual or interim financial statements that is more than inconsequential will not be prevented or detected.

Note: The term ''remote likelihood'' as used in the definitions of *significant deficiency* and *material weakness* (paragraph 3) has the same meaning as the term ''remote'' as used in Financial Accounting Standards Board Statement No. 5, *Accounting for Contingencies* (''FAS No. 5''). Paragraph 3 of FAS No. 5 states:

When a loss contingency exists, the likelihood that the future event or events will confirm the loss or impairment of an asset or the incurrence of a liability can range from probable to remote. This Statement uses the terms probable, reasonably possible, and remote to identify three areas within that range, as follows:

a. *Probable.* The future event or events are likely to occur.

b. *Reasonably possible.* The chance of the future event or events occurring is more than remote but less than likely.

c. *Remote.* The chance of the future events or events occurring is slight.

Therefore, the likelihood of an event is ''more than remote'' when it is either reasonably possible or probable.

Note: A misstatement is inconsequential if a reasonable person would conclude, after considering the possibility of further undetected misstatements, that the misstatement, either individually or when aggregated with other misstatements, would clearly be immaterial to the financial statements. If a reasonable person could not reach such a conclusion regarding a particular misstatement, that misstatement is more than inconsequential.

3. A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected.

Note: In evaluating whether a control deficiency exists and whether control deficiencies, either individually or in combination with other control deficiencies, are significant deficiencies or material weaknesses, the auditor should consider the definitions in paragraphs 1, 2 and 3, and the directions in paragraphs 130 through 137 of PCAOB Auditing Standard No. 2. As explained in paragraph 23 of PCAOB Auditing Standard No. 2, the evaluation of the materiality of the control deficiency should include both quantitative and qualitative considerations. Qualitative factors that might be important in this evaluation include the nature of the financial statement accounts and assertions involved and the reasonably possible future consequences of the deficiency. Furthermore, in determining whether a control deficiency, or combination of deficiencies, is a significant deficiency or a material weakness, the auditor should evaluate the effect of compensating controls and whether such compensating controls are effective.

4. The auditor must communicate in writing to management and the audit committee all significant deficiencies and material weaknesses identified during the audit. The written communication should be made prior to the issuance of the auditor's report on the financial statements. The auditor's communication should distinguish clearly between those matters considered significant deficiencies and those considered material weaknesses, as defined in paragraphs 2 and 3.

Note: If no such committee exists with respect to the company, all references to the audit committee in this standard apply to the entire board of directors of the company.[1] The auditor should be aware that companies whose securities are not listed on a national securities exchange or an automated inter-dealer quotation system of a national securities association (such as the New York Stock Exchange, American Stock Exchange, or NASDAQ) may not be required to have independent directors for their audit committees. In this case, the auditor should not consider the lack of independent directors or an audit committee at these companies indicative, by themselves, of a control deficiency. Likewise, the independence requirements of Securities Exchange Act Rule 10A–3[2] are not applicable to the listing of non-equity securities of a consolidated or at least 50 percent beneficially owned subsidiary of a listed issuer that is subject to the requirements of Securities Exchange Act Rule 10A–3(c)(2).[3] Therefore, the auditor should interpret references to the audit committee in this standard, as applied to a subsidiary registrant, as being consistent with the provisions of Securities Exchange Act Rule 10A–3(c)(2).[4] Furthermore, for subsidiary registrants, communications required by this standard to be directed to the audit committee should be made to the same committee or equivalent body that pre-approves the retention of the auditor by or on behalf of the subsidiary registrant pursuant to Rule 2–01(c)(7) of Regulation S–X[5] (which might be, for example, the audit committee of the subsidiary registrant, the full board of the subsidiary registrant, or the audit committee of the subsidiary registrant's parent). In all cases, the auditor should interpret the terms ''board of directors'' and ''audit committee'' in this standard as being consistent with provisions for the use of those terms as defined in relevant SEC rules.

5. If oversight of the company's external financial reporting and internal control over financial reporting by the company's audit committee is ineffective, that circumstance should be regarded as at least a significant deficiency and as a strong indicator that a material weakness in internal control over financial reporting exists. Although there is not an explicit requirement to evaluate the effectiveness of the audit committee's oversight in an audit of only the financial statements, if the auditor becomes aware that the oversight of the company's external financial reporting and internal control over financial reporting by the company's audit committee is ineffective, the auditor must communicate that specific significant deficiency or material weakness in writing to the board of directors.

6. These written communications should include:

a. The definitions of significant deficiencies and material weaknesses and should clearly distinguish to which category the deficiencies being communicated relate.

b. A statement that the objective of the audit was to report on the financial statements and not to provide assurance on internal control.

c. A statement that the communication is intended solely for the information and use of the board of directors, audit committee, management, and others within the organization. When there are requirements established by governmental authorities to furnish such written communications, specific reference to such regulatory authorities may be made.

7. The auditor might identify matters in addition to those required to be communicated by this standard. Such matters include control deficiencies identified by the auditor that are neither

[1] *See* 15 U.S.C. 78c(a)58 and 15 U.S.C. 7201(a)(3).

[2] *See* 17 CFR 240.10A–3.

[3] *See* 17 CFR 240.10A–3(c)(2).

[4] *See* 17 CFR 240.10A–3(c)(2).

[5] *See* 17 CFR 210.2–01(c)(7).

significant deficiencies nor material weaknesses and matters the company may request the auditor to be alert to that go beyond those contemplated by this standard. The auditor may report such matters to management, the audit committee, or others, as appropriate.

8. The auditor should not report in writing that no significant deficiencies were discovered during an audit of financial statements because of the potential that the limited degree of assurance associated with such a report will be misunderstood.

9. When timely communication is important, the auditor should communicate the preceding matters during the course of the audit rather than at the end of the engagement. The decision about whether to issue an interim communication should be determined based on the relative significance of the matters noted and the urgency of corrective follow-up action required.

In an audit of financial statements only, auditing interpretation 1 to AU sec. 325, ''Reporting on the Existence of Material Weaknesses,'' continues to apply except that the term ''reportable condition'' means ''significant deficiency,'' as defined in paragraph 9 of PCAOB Auditing Standard No. 2.

AU Sec. 326, ''Evidential Matter''

SAS No. 31, ''Evidential Matter,'' as amended by SAS No. 48, ''The Effects of Computer Processing on the Audit of Financial Statements,'' and SAS No. 80, ''Amendment to Statement on Auditing Standards No. 31, 'Evidential Matter' '' (AU sec. 326, ''Evidential Matter''), is amended by adding the following sentences at the end of paragraph 19:

Additionally, the auditor's substantive procedures must include reconciling the financial statements to the accounting records. The auditor's substantive procedures also should include examining material adjustments made during the course of preparing the financial statements.

AU Sec. 329, ''Analytical Procedures''

SAS No. 56, ''Analytical Procedures,'' as amended by SAS No. 96, ''Audit Documentation'' (AU sec. 329, ''Analytical Procedures''), is amended as follows:

a. The following sentence is added to the end of paragraph 9: For significant risks of material misstatement, it is unlikely that audit evidence obtained from substantive analytical procedures alone will be sufficient.

b. The following sentences are added to the end of paragraph 10: When designing substantive analytical procedures, the auditor also should evaluate the risk of management override of controls. As part of this process, the auditor should evaluate whether such an override might have allowed adjustments outside of the normal period-end financial reporting process to have been made to the financial statements. Such adjustments might have resulted in artificial changes to the financial statement relationships being analyzed, causing the auditor to draw erroneous conclusions. For this reason, substantive analytical procedures alone are not well suited to detecting fraud.

c. The following sentence is added to the beginning of paragraph 16: Before using the results obtained from substantive analytical procedures, the auditor should either test the design and operating effectiveness of controls over financial information used in the substantive analytical procedures or perform other procedures to support the completeness and accuracy of the underlying information.

AU Sec. 332, ''Auditing Derivative Instruments, Hedging Activities, and Investments in Securities''

SAS No. 92, ''Auditing Derivative Instruments, Hedging Activities, and Investments in Securities'' (AU sec. 332, ''Auditing Derivative Instruments, Hedging Activities, and Investments in Securities''), is amended by adding the following note after paragraph 11:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, PCAOB Auditing Standard No. 2 states, ''the auditor must obtain sufficient competent evidence about the design and operating effectiveness of controls over all relevant financial statement assertions related to all significant accounts and disclosures in the financial statements.'' Therefore, in an integrated audit of financial statements and internal control over financial reporting, if a company's investment in derivatives and securities represents a significant account, the auditor's understanding of controls should include controls over derivatives and securities transactions from their initiation to their inclusion in the financial statements and should encompass controls placed in operation by the entity and service organizations whose services are part of the entity's information system.

AU Sec. 333, ''Management Representations''

SAS No. 85, ''Management Representations,'' as amended by SAS No. 89, ''Audit Adjustments,'' and SAS No. 99 ''Consideration of Fraud in a Financial Statement Audit'' (AU sec. 333, ''Management Representations''), is amended by adding the following note after paragraph 5:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 142–144 of PCAOB Auditing Standard No. 2 for additional required written representations to be obtained from management.

AU Sec. 342, ''Auditing Accounting Estimates''

SAS No. 57, ''Auditing Accounting Estimates'' (AU sec. 342, ''Auditing Accounting Estimates''), is amended by adding the following note after paragraph 10:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, the auditor may use any of the three approaches. However, the work that the auditor performs as part of the audit of internal control over financial reporting should necessarily inform the auditor's decisions about the approach he or she takes to auditing an estimate because, as part of the audit of internal control over financial reporting, the auditor would be required to obtain an understanding of the process management used to develop the estimate and to test controls over all relevant assertions related to the estimate.

AU Sec. 380, ''Communication with Audit Committees''

SAS No. 61, ''Communication with Audit Committees'' (AU sec. 380, ''Communication with Audit Committees''), is amended by replacing the title of Section 325 in the first bullet in footnote 1 in paragraph 1 with ''Communications About Control Deficiencies in An Audit of Financial Statements'' and adding the following after the last bullet in footnote 1 in paragraph 1:

- PCAOB Auditing Standard No. 2, An Audit of Internal Control Over Financial Reporting Performed in Conjunction with an Audit of Financial Statements.

AU Sec. 508, ''Reports on Audited Financial Statements''

SAS No. 58, ''Reports on Audited Financial Statements,'' as amended by SAS No. 64, ''Omnibus Statement on Auditing Standards—1990,'' SAS No. 79, ''Amendment to Statement on Auditing Standards No. 58, 'Reports on Audited Financial Statements,' '' SAS No. 85, ''Management Representations,'' SAS No. 93, ''Omnibus Statement on Auditing Standards—2000,'' and SAS No. 98, ''Omnibus Statement on Auditing Standards—2002'' (AU sec. 508, ''Reports on Audited Financial Statements''), is amended as follows:

a. The following note is added after paragraph 1:

Note: When performing an integrated audit of financial statements and internal control

over financial reporting, the auditor may choose to issue a combined report or separate reports on the company's financial statements and on internal control over financial reporting. Refer to paragraphs 162–199 of PCAOB Auditing Standard No. 2 for direction on reporting on internal control over financial reporting. In addition, see Appendix A, ''Illustrative Reports on Internal Control Over Financial Reporting,'' of PCAOB Auditing Standard No. 2 which includes an illustrative combined audit report and examples of separate reports.

b. The following subparagraph is added to paragraph 8:

k. When performing an integrated audit of financial statements and internal control over financial reporting, if the auditor issues separate reports on the company's financial statements and on internal control over financial reporting, the following paragraph should be added to the auditor's report on the company's financial statements:

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of X Company's internal control over financial reporting as of December 31, 20X3, based on *[identify control criteria]* and our report dated *[date of report, which should be the same as the date of the report on the financial statements]* expressed *[include nature of opinions].*

AU Sec. 530, ''Dating of the Independent Auditor's Report''

SAS No. 1, ''Codification of Auditing Standards and Procedures,'' AU sec. 530, ''Dating of the Independent Auditor's Report,'' as amended by SAS No. 29, ''Reporting on Information Accompanying the Basic Financial Statements in Auditor-Submitted Documents,'' and SAS No. 98, ''Omnibus Statement on Auditing Standards—2002'' (AU sec. 530, ''Dating of the Independent Auditor's Report''), is amended by adding the following note after paragraph .01:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, the auditor's reports on the company's financial statements and on internal control over financial reporting should be dated the same date. Refer to paragraphs 171–172 of PCAOB Auditing Standard No. 2, which provide direction with respect to the report date in an audit of internal control over financial reporting.

AU Sec. 532, ''Restricting the Use of an Auditor's Report''

SAS No. 87, ''Restricting the Use of an Auditor's Report,'' (AU sec. 532, ''Restricting the Use of an Auditor's Report''), is amended by replacing ''Section 325, Communication of Internal Control Related Matters Noted in an Audit'' in the first bullet of paragraph .07 with ''Section 325, Communications About Control Deficiencies in An Audit of Financial Statements.''

AU Sec. 543, ''Part of Audit Performed by Other Independent Auditors''

SAS No. 1, ''Codification of Auditing Standards and Procedures,'' AU sec. 543, ''Part of Audit Performed by Other Independent Auditors,'' as amended by SAS No. 64, ''Omnibus Statement on Auditing Standards—1990'' (AU sec. 543, ''Part of Audit Performed by Other Independent Auditors''), is amended by adding the following note after paragraph .01:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 182–185 of PCAOB Auditing Standard No. 2, which provide direction with respect to opinions based, in part, on the report of another auditor in an audit of internal control over financial reporting.

AU Sec. 9550, ''Other Information in Documents Containing Audited Financial Statements: Auditing Interpretations of Section 550

AU sec. 9550, ''Other Information in Documents Containing Audited Financial Statements: Auditing Interpretations of Section 550,'' is amended by replacing the term ''reportable conditions'' with the term ''significant deficiencies'' in footnote 8 to paragraph 15 and also replaces in that footnote the reference to Section 325.17 with the reference Section 325.8.

AU Sec. 560, ''Subsequent Events''

SAS No. 1, ''Codification of Auditing Standards and Procedures,'' AU sec. 560, ''Subsequent Events,'' as amended by SAS No. 12, ''Inquiry of a Client's Lawyer Concerning Litigation, Claims, and Assessments,'' and SAS No. 98, ''Omnibus Statement on Auditing Standards—2002'' (AU sec. 560, ''Subsequent Events''), is amended by adding the following note after paragraph .01:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 186–189 of PCAOB Auditing Standard No. 2, which provide direction with respect to subsequent events in an audit of internal control over financial reporting.

AU Sec. 561, ''Subsequent Discovery of Facts Existing at the Date of the Auditor's Report''

SAS No. 1, ''Codification of Auditing Standards and Procedures,'' AU sec. 561, ''Subsequent Discovery of Facts Existing at the Date of the Auditor's Report,'' as amended by SAS No. 98, ''Omnibus Statement on Auditing Standards—2002'' (AU sec. 561, ''Subsequent Discovery of Facts Existing at the Date of the Auditor's Report''), is amended by adding the following note after paragraph .01:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraph 197 of PCAOB Auditing Standard No. 2, which provides direction with respect to the subsequent discovery of information existing at the date of the auditor's report on internal control over financial reporting.

AU Sec. 634, ''Letters for Underwriters and Certain Other Requesting Parties''

SAS No. 72, ''Letters for Underwriters and Certain Other Requesting Parties,'' as amended by SAS No. 76, ''Amendments to Statement on Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties,'' and SAS No. 86, ''Amendment to Statement on Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties'' (AU sec. 634, ''Letters for Underwriters and Certain Other Requesting Parties'') is amended by replacing the reference to ''Section 325, Communication of Internal Control Related Matters Noted in an Audit'' with ''Section 325, Communications About Control Deficiencies in An Audit of Financial Statements.''

AU Sec. 711, ''Filings Under Federal Securities Statutes''

SAS No. 37, ''Filings Under Federal Securities Statutes'' (AU sec. 711, ''Filings Under Federal Securities Statutes''), is amended by adding the following note after paragraph 2:

Note: When performing an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 198–199 of PCAOB Auditing Standard No. 2, which provide direction when an auditor's report on internal control over financial reporting is included or incorporated by reference in filings under federal securities statutes.

AU Sec. 722, ''Interim Financial Information''

SAS No. 100, ''Interim Financial Information'' (AU sec. 722, ''Interim Financial Information''), is amended as follows:

a. The following note is added after paragraph 3:

Note: When an auditor is engaged to perform an integrated audit of financial statements and internal control over financial reporting, refer to paragraphs 202–206 of PCAOB Auditing Standard No. 2, which provide direction regarding the auditor's evaluation responsibilities as they relate to management's quarterly certifications on internal control over financial reporting.

a. In paragraph 9, the term ''reportable conditions'' is replaced by the term ''significant deficiencies.''

b. In paragraph 33, the term ''reportable conditions'' is replaced by the term ''significant deficiencies.'' Also, the third sentence is replaced by the following:

A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the company's ability to initiate, authorize, record, process, or report external financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the company's annual or interim financial statements that is more than inconsequential will not be prevented or detected.

c. The reference in footnote 22 to paragraph 33 to ''Section 325, Communication of Internal Control Related Matters in an Audit'' is replaced with ''Section 325, Communications About Control Deficiencies in An Audit of Financial Statements.''

Attestation Standards

AT sec. 501, ''Reporting on an Entity's Internal Control Over Financial Reporting''

Chapter 5, ''Reporting on an Entity's Internal Control Over Financial Reporting,'' of Statement on Standards for Attestation Engagements No. 10, ''Attestation Standards: Revision and Recodification'' (AT sec. 501, ''Reporting on an Entity's Internal Control Over Financial Reporting''), and its related interpretation (AT sec. 9501, ''Reporting on an Entity's Internal Control Over Financial Reporting: Attest Engagements Interpretations of Section 501''), are superseded by the conforming amendments and, accordingly, are no longer interim standards of the Board.

Independence Standards

ET Sec. 101.05

Rule 101, ''Independence'' (ET sec. 101.05) is amended by adding the following note after the second paragraph of interpretation 101–3, ''Performance of Other Services:''

Note: Paragraph 33 of PCAOB Auditing Standard No. 2 contains an additional requirement related to audit committee pre-approval of internal control-related services.

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rules and discussed any comments it received on the proposed rules. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

(a) Purpose

When the Board adopted PCAOB Auditing Standard No. 2, *An Audit of Internal Control Over Financial Reporting Performed in Conjunction with An Audit of Financial Statements* (PCAOB Release No. 2004–001, dated March 9, 2004) (the ''internal control standard''), the Board recognized that the internal control standard superseded the professional standards adopted by the Board as its interim standards [6] in some respects, and that express amendments to those standards could be helpful to make the interim standards consistent with the principles and requirements in the internal control standard. The Board also planned to make several amendments to the interim standards that would be applicable to situations in which Section 404 of the Sarbanes-Oxley Act of 2002 is not applicable and only the financial statements of a company are required to be audited. Accordingly, the Board issued for public comment the proposed conforming amendments, which identified conforming changes to the interim standards resulting from the adoption of PCAOB Auditing Standard No. 2.

The purpose of the conforming amendments is to specifically identify changes to the interim standards that result from the adoption of PCAOB Auditing Standard No. 2. The Board believes that identification of such changes is helpful in enabling auditors to comply with the Board's standards, as well as in eliminating potential confusion and inconsistencies in interpretation with respect to the affected portions of the interim standards. Accordingly, the scope of the conforming amendments is relatively narrow and comprises amendments to the interim standards resulting only from the adoption of PCAOB Auditing Standard No. 2.

(b) Statutory Basis

The statutory basis for the proposed rules is Title I of the Act.

B. Board's Statement on Burden on Competition

The Board does not believe that the proposed rules will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rules identify changes to the interim standards that result from the adoption of PCAOB Auditing Standard No. 2.

C. Board's Statement on Comments on the Proposed Rules Received From Members, Participants or Others

The Board released the proposed rules for public comment in PCAOB Release No. 2004–002 (March 9, 2004). A copy of PCAOB Release No. 2004–002 and the comment letters received in response to the PCAOB's request for comment are available on the PCAOB's Web site at *www.pcaobus.org.* The Board received 10 written comments. The Board has modified certain aspects of the proposed rules in response to comments it received, as discussed below:

1. Auditing Standards

The Board's interim auditing standards include the Statements on Auditing Standards promulgated by the American Institute of Certified Public Accountants (''AICPA'') Auditing Standards Board (''ASB''), as in existence on April 16, 2003.[7] The conforming amendments to the Board's interim auditing standards include (a) the addition of references to assist auditors in performing an integrated

[6] Effective April 16, 2003, the PCAOB adopted, on an initial, transitional basis, five temporary interim standards rules (PCAOB Rules 3200T, 3300T, 3400T, 3500T, and 3600T) that refer to pre-existing professional standards of auditing, attestation, quality control, ethics, and independence (the ''interim standards''). These rules were approved by the Securities and Exchange Commission on April 25, 2003 (*See* SEC Release No. 33–8222). On December 17, 2003, the Board approved technical amendments to the interim standards rules indicating that, ''when the Board adopts a new auditing and related professional practice standard that addresses a subject matter that also is addressed in the interim standards, the affected portion of the interim standards will be superseded or effectively amended. Accordingly, the Board approved adding the phrase 'to the extent not superseded or amended by the Board' to each of the interim standards rules.''

[7] The Statements on Auditing Standards (''AU'') are codified into the AICPA *Professional Standards*, vol. 1, as AU sections 100 through 901.

audit of financial statements and internal control over financial reporting and (b) amendments to incorporate certain requirements in PCAOB Auditing Standard No. 2 that also apply when an auditor is engaged solely to audit a company's financial statements.

a. Addition of References to the Interim Standards

References have been added to assist auditors in performing an integrated audit of financial statements and internal control over financial reporting. Auditors are cautioned that the references might not be all inclusive. If there is any conflict between the interim auditing standards and PCAOB Auditing Standard No. 2, auditors should follow the provisions of PCAOB Auditing Standard No. 2.

In the release relating to the proposed conforming amendments, commenters were asked whether the proposed references would be useful to auditors performing an integrated audit of financial statements and internal control over financial reporting. The release also asked whether any references considered beneficial were omitted from the proposed standard.

Most commenters found the proposed references to be helpful to auditors performing both integrated audits and audits of financial statements. Several commenters voiced concerns stemming from the lack of a codification of PCAOB auditing standards. The Board believes that auditors will find the listing of conforming amendments in this rulemaking to be a useful tool for reconciling changes to the interim standards. The Board decided that no change is necessary to the conforming amendments in response to these comments regarding a codification because these comments were outside the scope of this rulemaking.

In addition, several commenters suggested additional references to include in the final conforming amendments. The Board evaluated each of these suggestions individually and included them in the final conforming amendments where deemed appropriate.

b. Amendments To Incorporate Requirements From PCAOB Auditing Standard No. 2

While PCAOB Auditing Standard No. 2 is directed primarily to an auditor performing an integrated audit of financial statements and internal control over financial reporting, some provisions in that standard are relevant to situations in which an auditor is engaged solely to audit a company's financial statements, such as in an audit of financial statements presented in connection with an initial public offering, in which the company is not subject to the requirements of Section 404 of the Act and the SEC's rules implementing that provision.[8] Therefore, this rulemaking amends certain interim standards directly because those amendments would apply in all cases.

In the release relating to the proposed conforming amendments, commenters were asked (a) whether the proposed amendments clearly describe the new requirements that apply either when the auditor is engaged to audit only the financial statements or when the auditor is engaged to perform an integrated audit of the financial statements and internal control over financial reporting; and (b) whether there were any additional requirements not already identified that also should apply when the auditor is engaged to audit only the financial statements.

Most commenters found the proposed amendments both clear and helpful. A few commenters suggested editorial changes to the proposed amendments, while others suggested additional amendments. The Board reviewed all such comments and, where appropriate, incorporated them into the final conforming amendments.

One commenter believed that a number of new requirements that apply when the auditor is engaged to audit only the financial statements have been obscured behind the label of ''conforming changes'' and that, as a result, auditors will fail to notice such new requirements. This commenter suggested that the Board appropriately highlight each new requirement for such audits to ensure that auditors are aware of and fully understand the ramifications of each new requirement. The changes described in the conforming amendments were first presented for public comment in connection with the Board's proposal of Auditing Standard No. 2 in October 2003. Because a number of commenters, when commenting on that proposal, suggested that a more detailed explanation of these changes could be helpful to practitioners, the Board decided to more clearly identify the changes in separate conforming amendments. These two notice and comment periods have served to highlight these changes, and the Board believes that the conforming amendments adopted today, together with this release describing those amendments, provide auditors adequate explanation to understand the effects of these changes on the financial statement audit.

Significant areas of amendment to the auditing standards are discussed below, including comments received and the Board's response thereto. For ease of reference, the references herein are to the interim standards as codified in AICPA *Professional Standards,* rather than to the original pronouncements.

(1) AU Sec. 310, ''Appointment of the Independent Auditor''

This standard has been amended to include requirements related to the auditor's understanding with the client when performing an integrated audit of financial statements and internal control over financial reporting. For consistency, certain related amendments also have been made to the auditor's required understanding with the client when performing an audit of financial statements. One commenter suggested that the amendments to this standard indicating that reasonable assurance is ''a high level of assurance'' were inappropriate and should be subject to further deliberation and discussion. The Board's clarification that reasonable assurance is ''a high level of assurance'' was clearly included in PCAOB Auditing Standard No. 2. As indicated in the Board's release proposing the conforming amendments, the scope of this rulemaking did not include reconsidering any principles or requirements of PCAOB Auditing Standard No. 2. Accordingly, the Board viewed this comment regarding reasonable assurance as beyond the scope of the proposed conforming amendments rulemaking. No changes have been made based upon this comment.

(2) AU Sec. 319, ''Consideration of Internal Control in a Financial Statement Audit''

This interim standard has been amended by adding a requirement that states, ''Regardless of the assessed level of control risk, the auditor should perform substantive procedures for all relevant assertions related to all significant accounts and disclosures in the financial statements.'' As it relates to this requirement, Auditing Standard No. 2 states, ''Regardless of the assessed level of control risk or the assessed risk of material misstatement in connection with the audit of the financial statements, the auditor should perform substantive procedures for all relevant assertions for all significant accounts and disclosures. Performing procedures

[8] *See Final Rule: Management's Reports on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports.* Securities and Exchange Commission Release No. 33–8238 (June 5, 2003) [68 FR 36636].

to express an opinion on internal control over financial reporting does not diminish this requirement.'' A similar conforming amendment has been made to AU sec. 322, ''The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements.''

(3) AU Sec. 325, ''Communication of Internal Control Related Matters Noted in an Audit.''

This standard has been superseded in the context of an integrated audit of financial statements and internal control over financial reporting by paragraphs 207 through 214 of PCAOB Auditing Standard No. 2. By this rulemaking, the Board is also amending this interim standard, as applied to an audit only of financial statements, by substituting the paragraphs included in the appendix accompanying this release (*See* AU sec. 325, subparagraphs 1–9 in the appendix).

Communication of the Ineffectiveness of the Audit Committee. The proposed amendment stated that, in an audit only of financial statements, an auditor does not have a requirement to evaluate the effectiveness of the audit committee's oversight of the company's internal control over financial reporting. The proposed amendment would also have required an auditor to communicate, in writing, to the board of directors if a significant deficiency or material weakness exists, however, because the oversight of the company's external financial reporting and internal control over financial reporting is ineffective.

While commenters unanimously agreed with this provision, several commenters asked for clarification of the auditor's responsibility. In response, the Board has amended subparagraph 5 of the conforming amendments to AU sec. 325 to read as follows, proposed new language is in *italics,* proposed deletions are in [brackets].

If oversight of the company's external financial reporting and internal control over financial reporting by the company's audit committee is ineffective, that circumstance should be regarded as at least a significant deficiency and as a strong indicator that a material weakness in internal control over financial reporting exists. Although there is not an explicit requirement to evaluate the effectiveness of the audit committee's oversight *in an audit of only the financial statements,* [of the external financial reporting process and the internal control over financial reporting,] if *the auditor becomes aware that* [a significant deficiency or material weakness exists because] the oversight of the company's external financial reporting and internal control over financial reporting by the company's audit committee is ineffective, the auditor must communicate that specific significant deficiency or material weakness in writing to the board of directors.

This change is intended to clarify that, while an auditor does not have an explicit requirement to perform a separate and distinct evaluation of the effectiveness of the audit committee in a financial statement audit, the auditor does have a communication responsibility when he or she becomes aware of a significant deficiency or material weakness caused by the audit committee's ineffectiveness.

Illustrative Internal Control Reports. Several commenters requested that the Board revise and include in the conforming amendments illustrative reports to management about deficiencies in internal control similar to those previously contained in AU sec. 325 and its related interpretation. The Board noted that presenting such reports in a rulemaking of the Board might lead firms to use boilerplate language in such communications to management and others. In addition, the Board believes that any new illustrative reports it issues as part of the Board's standards must not only reflect conforming changes but also incorporate best practices at the time of issuance. This type of revision of illustrative reports is beyond the scope of the conforming amendments. Additionally, the Board expects that auditors will be able to clearly and appropriately communicate these matters without relying on illustrative reports. For these reasons, illustrative reports have not been included in the conforming amendments.

(4) AU Sec. 326, ''Evidential Matter''

This standard has been amended to add a requirement stating that, ''the auditor's substantive procedures must include reconciling the financial statements to the accounting records. The auditor's substantive procedures should include examining material adjustments made during the course of preparing the financial statements.'' PCAOB Auditing Standard No. 2 is clear on the applicability of these procedures in an integrated audit of financial statements and internal control over financial reporting. The Board believes that it is logical and appropriate that these procedures also be performed in an audit of the financial statements. No commenters objected to this amendment.

(5) AU Sec. 329, ''Analytical Procedures''

This standard is amended to add the following directions:

- For significant risks of material misstatement, it is unlikely that audit evidence obtained from substantive analytical procedures alone will be sufficient.
- When designing substantive analytical procedures, the auditor also should evaluate the risk of management override of controls. As part of this process, the auditor should evaluate whether such an override might have allowed adjustments outside of the normal period-end financial reporting process to have been made to the financial statements. Such adjustments might have resulted in artificial changes to the financial statement relationships being analyzed, causing the auditor to draw erroneous conclusions. For this reason, substantive analytical procedures alone are not well suited to detecting fraud.
- Before using the results obtained from substantive analytical procedures, the auditor should either test the design and operating effectiveness of controls over financial information used in the substantive analytical procedures or perform other procedures to support the completeness and accuracy of the underlying information.

PCAOB Auditing Standard No. 2 is clear on the applicability of these procedures in an integrated audit of financial statements and internal control over financial reporting. The Board also believes that it is logical and appropriate to perform these procedures in an audit of the financial statements. The Board did not receive any comments on these amendments other than comments that re-challenged their inclusion in PCAOB Auditing Standard No. 2. As indicated in the Board's proposing release, these types of comments were considered to be beyond the scope of the proposed conforming amendments; therefore, no changes have been made based upon these comments.

(6) AU Sec. 339, ''Audit Documentation''

The proposed conforming amendments would have added a subparagraph to Appendix A of this standard (''SAS No. 96''). Subsequent to the conforming amendments being issued for public comment, the Board adopted, and the Securities and Exchange Commission approved, PCAOB Auditing Standard No. 3, *Audit Documentation.* PCAOB Auditing Standard No. 3 superseded SAS No. 96

in its entirety, including Appendix A. Therefore, this proposed conforming amendment is not included in the final conforming amendments because the Board's interim standards no longer contain Appendix A of AU sec. 339.

(7) AU Sec. 380, ''Communication With Audit Committees''

Footnote one to this standard includes a list of other standards that also require audit committee communications. Because PCAOB Auditing Standard No. 2 also includes required audit committee communications, this standard is amended by including a reference to PCAOB Auditing Standard No. 2 in footnote one. The Board added this conforming amendment based on a suggestion from a commenter.

2. Attestation Standards

The Board's interim attestation standards include the Statements on Standards for Attestation Engagements promulgated by the ASB, as in existence on April 16, 2003.[9] Auditors performing an integrated audit of financial statements and internal control over financial reporting to comply with Section 404 of the Act must follow PCAOB Auditing Standard No. 2 when reporting on an entity's internal control over financial reporting. Therefore, in the context of an audit of a company that is subject to Section 404 of the Act, AT sec. 501 has been superseded by the internal control standard. Because AT 501, even as applied to an engagement other than an engagement under Section 404, is outdated, the proposed conforming amendments recommended that AT sec. 501 be superseded in its entirety and removed from the Board's standards.

The release to the proposed conforming amendments asked commenters whether AT sec. 501 should be amended rather than superseded in its entirety. Furthermore, it asked commenters to provide information on (a) whether there are any circumstances in which an issuer would want or need to file an AT sec. 501 report with the SEC and (b) whether there is a need for an auditor's report on internal control in addition to the auditor's report on the integrated audit of financial statements and internal control over financial reporting for purposes of complying with Section 404 of the Act. Commenters who believed such a need exists were requested to indicate in their responses the type of information that should be included in the report, the circumstances in which such a report might be issued, and the intended users of such a report.

Most commenters agreed with the deletion of AT sec. 501 from the Board's interim standards. Those commenters believed that AT sec. 501 is inferior to PCAOB Auditing Standard No. 2. In addition, those commenters were unaware of any circumstances in which an issuer would be required to file an AT sec. 501 report with the SEC, or of any instances in which issuers might need an auditor's report on internal control other than the one embodied in PCAOB Auditing Standard No. 2.

Other commenters, however, expressed concerns about superseding AT sec. 501 in its entirety for a number of reasons. A couple of commenters pointed out that the auditors of some asset-backed securities (''ABS'') issuers issue AT sec. 501 reports in order for those ABS issuers to comply with the SEC's annual filing requirements. ABS issuers are not required to comply with Section 404 of the Act, however. No ABS issuer is required to file an auditor's report performed pursuant to AT sec. 501; rather, ABS issuers may comply with the SEC's annual filing requirements by filing an auditor's report performed pursuant to AT sec. 601, *Compliance Attestation.* Further, under a recent SEC proposal (*Proposed Rule: Asset-Backed Securities, Release Nos. 33–8419 and 34–49644,* May 3, 2004), the SEC would require an ABS issuer to include in its annual filing one consistent form of auditor's report. In lieu of audited financial statements and compliance with Section 404 of the Act, the SEC proposal would require that management of certain ABS issuers assess the issuer's compliance with servicing criteria and that the auditor attest to, and report on, management's assertion as to whether it complied with the servicing standards through the performance of a compliance attestation. According to the proposal, the attestation standard under which the auditor should perform such engagement would be ''Compliance Attestation,'' AT sec. 601 or another standard for compliance auditing established by the PCAOB. Therefore, if the SEC proposal is adopted, the SEC would no longer accept AT sec. 501 reports for this purpose.

Other commenters expressed less specific concerns over superseding AT sec. 501 in its entirety. These commenters expressed a belief that, at some point, both issuers and nonissuers might need (or want) other reports on internal control presently not provided for under PCAOB Auditing Standard No. 2. For example, these commenters suggested that issuers might need an interim report on internal control, especially when a material weakness that existed at year end is subsequently corrected. Another commenter suggested that an issuer might want an audit report on some other aspect of internal control. None of these commenters, however, provided the detailed discussion requested in the release about the type of information that should be included in such a report, the circumstances in which it might be issued, and the intended users of such a report.

The Board continues to believe that AT sec. 501 lacks the necessary specificity provided in PCAOB Auditing Standard No. 2. At a minimum, if AT sec. 501 were to be retained in the Board's standards, the reporting directions in AT sec. 501 would require immediate revision to clearly distinguish for report users the difference between a report issued under AT sec. 501 and PCAOB Auditing Standard No. 2. Further, it would be necessary to make extensive revisions to AT sec. 501 to conform it to the principles and requirements embodied in PCAOB Auditing Standard No. 2. Because commenters were unable to describe a specific need that is currently unmet by reports issued under PCAOB Auditing Standard No. 2 or other professional standards, there appears to be no compelling reason at this time for the Board either to amend AT sec. 501 or to propose a new standard to replace AT sec. 501. Accordingly, the conforming amendments supersede AT sec. 501 altogether and remove it from the Board's standards effective immediately upon approval by the SEC.

Because AT sec. 501 is no longer a part of the Board's interim standards, it is not appropriate for auditors of issuers following the PCAOB's standards to use AT sec. 501 when reporting on the internal control over financial reporting of an issuer.

3. Independence Standards

The Board's interim independence standards include the AICPA *Code of Professional Conduct* Rule 101, and interpretations and rulings thereunder, promulgated by the AICPA Professional Ethics Executive Committee, as in existence on April 16, 2003.[10] As indicated in PCAOB Auditing Standard No. 2, a registered public accounting firm and its associated persons must not accept an engagement to provide

[9] The Statements on Standards for Attestation Engagements (''AT'') are codified into the AICPA *Professional Standards*, vol. 1, as AT sections 101 through 701.

[10] The AICPA's Code of Professional Conduct (''ET'') Rule 101, and interpretations and rulings thereunder, are codified into the AICPA *Professional Standards,* vol. 2, as ET sections 101 and 191.

internal control-related services to an issuer for which the registered public accounting firm also audits the financial statements unless that engagement has been specifically pre-approved by the audit committee. Because this requirement adds to current independence requirements, a reference to this requirement has been added to interpretation 101–3, ''Performance of Other Services,'' to Rule 101, ''Independence'' (ET sec. 101.05). The Board did not receive any comments objecting to this amendment.

Please note that a table, ''Cross-References to Conforming Amendments to PCAOB Interim Standards,'' which identifies all of the amendments that the conforming amendments describe, can be found in PCAOB Release 2004–008, dated September 15, 2004, which is available on the PCAOB's Web site at *http://www.pcaobus.org.*

4. Lack of ''Background and Basis for Conclusions''

In auditing standards issued by the Board, a discussion of the comments received and other factors deemed significant by the Board in reaching the conclusions embodied in the final standard is contained in an appendix to the standard titled ''Background and Basis for Conclusions.'' Because this rulemaking is not an auditing standard, it does not include such an appendix. The Board, however, believes this type of discussion is helpful to this rulemaking. Accordingly, in addition to describing the nature and extent of amendments made to the interim standards, the foregoing also contains, when appropriate, a discussion of the significant factors considered by the Board in developing the final conclusions reflected in the conforming amendments.

5. Effective Date

As to the effective date of the amendments, PCAOB Rule 3200T requires auditors to comply with the Board's interim auditing standards ''to the extent not superseded or amended by the Board.'' Similarly, the Board's interim attestation and independence standards rules require registered firms and their associated persons to comply with certain existing attestation and independence standards ''to the extent not superseded or amended by the Board.'' [11]

PCAOB Auditing Standard No. 2, *An Audit of Internal Control Over Financial Reporting Performed in Conjunction with An Audit of Financial Statements,* was approved by the Commission on June 17, 2004 as the standard for audits of internal control over financial reporting required by Section 404(b) of the Sarbanes-Oxley Act of 2002. PCAOB Auditing Standard No. 2 supersedes the Board's interim standards in a number of respects and auditors must comply with all applicable provisions of Auditing Standard No. 2 once it is effective, including those provisions that supersede the Board's interim standards.

As discussed above, the proposed rules describe and expressly state the changes to the interim standards caused by the adoption of PCAOB Auditing Standard No. 2. Accordingly, pending SEC approval and subject to the two exceptions noted below, the Board intends for the conforming amendments to become effective for integrated audits of financial statements and internal control over financial reporting at the same time PCAOB Auditing Standard No. 2 becomes effective. Companies considered accelerated filers under Securities Exchange Act Rule 12b–2 [12] are required to comply with the internal control reporting and disclosure requirements of Section 404 of the Act for fiscal years ending on or after November 15, 2004. Other companies have until fiscal years ending on or after July 15, 2005, to comply with the internal control reporting and disclosure requirements and the conforming amendments. Early implementation of the conforming amendments is permitted.

There are two exceptions to this general statement. First, certain parts of the conforming amendments apply to an audit of financial statements of an issuer regardless of whether the issuer is required to comply with the internal control requirements of Section 404 of the Act. In order to provide for an orderly transition for issuers not required to comply with Section 404 of the Act, the Board has determined that these parts of the conforming amendments should be effective for audits of financial statements for periods ending on or after July 15, 2005, pending approval of the conforming amendments by the SEC. This means that auditors of non-accelerated filers are not required to comply with the conforming amendments in conducting audits of financial statements until performing audits of financial statements for fiscal years ending on or after July 15, 2005. The effect of these parts of the conforming amendments is discussed further below.

Second, the Board intends for the part of the conforming amendments that supersedes AT sec. 501, ''Reporting on an Entity's Internal Control Over Financial Reporting,'' to be effective immediately upon approval of the conforming amendments by the SEC. As discussed in greater detail above, in light of the adoption of PCAOB Auditing Standard No. 2, the Board does not see a compelling reason for the Board to retain AT sec. 501 in its interim standards.

6. Effect of Auditing Standard No. 2 on Audits of Financial Statements Only

The conforming amendments are effective, pending SEC approval, for audits of financial statements only for periods ending on or after July 15, 2005. For the most part, however, the Board believes the amendments represent clarifications of concepts already included in the Board's interim standards, rather than wholly new concepts or requirements. Accordingly, the Board encourages auditors to carefully consider their obligations under the Board's interim standards and not to draw a negative inference from the inclusion of a specific provision in the conforming amendments that equivalent procedures are not currently required to comply with the Board's interim standards.

III. Date of Effectiveness of the Proposed Rule and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Board consents the Commission will:

(a) By order approve such proposed rule; or

(b) Institute proceedings to determine whether the proposed rule should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule is consistent with Title I of the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's *Internet comment form (http://www.sec.gov/rules/pcaob.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. PCAOB–2004–07 on the subject line.

[11] PCAOB Rules 3300T, 3600T.

[12] *See* 17 CFR 240.12b–2.

Paper Comments

• Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File No. PCAOB–2004–07; this file number should be included on the subject line if e-mail is used. To help us process and review your comments efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/PCAOB.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All comments should be submitted on or before November 3, 2004.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–2575 Filed 10–12–04; 8:45 am]

BILLING CODE 8010—01—P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50492; File No. SR–Amex–2004–73]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Relating to the Maturity of FLEX Index Options

October 5, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 31, 2004, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Amex.[3] The Exchange has filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 903G(a)(4)(i) to extend the maximum permissible term of FLEX index options to ten years under certain circumstances. The text of the proposed rule change appears below. Proposed new language is *italicized.*

* * * * *

Rule 903G Terms of FLEX Options

(a) General Terms

(1)–(3) No Change.

(4) Every FLEX Request for Quotes and every responsive FLEX Quote, as applicable, must satisfy the following contract and transaction specifications:

(i) The maximum term of any FLEX Equity Option shall be three years, provided, however, that a submitting Member may request a longer term to a maximum of five (5) years, and upon assessment by the Flex Post Supervisor that sufficient liquidity exists among Specialists and Registered Options Traders such request may be granted. The maximum term of any FLEX Index Option shall be five (5) years, *however, a Submitting Member may request a longer term to a maximum of ten (10) years, and upon assessment by the Flex Post Supervisor that sufficient liquidity exists among Specialists and Registered Options Traders such request may be granted;*

(ii)–(iv) No Change.

(b)–(c) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, under Amex Rule 903G, ''Terms of FLEX Options,'' FLEX index options are limited to a maturity of five years. The purpose of the proposal is to allow FLEX index options traded on the Amex to have a maturity beyond five years and up to ten years in certain circumstances.

FLEX index options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices. Currently, FLEX index options are limited to a maximum term of five years. The Exchange recently has received requests from broker-dealers to extend the maturity of FLEX index options to ten years. Among the reasons for this request from the broker-dealers is that some of their institutional customers trade or issue securities with five-to ten-year terms and are seeking a method to hedge that long-term risk. Furthermore, the Chicago Board Options Exchange, Inc. (''CBOE'') amended CBOE Rule 24A.4(a)(4)(i) to increase the maximum term of FLEX index options from five to ten years.[6]

The proposed amendment to Amex Rule 903G would permit FLEX index options with terms up to a maximum of ten years when requested by a Submitting Member if the FLEX Post Supervisor determines that sufficient liquidity exists among FLEX index participating members. In other words, the FLEX Post Supervisor will ask FLEX index market-makers and other FLEX index traders (including the Submitting Member) whether any of them are interested in making a two-sided market in the proposed series for the size requested. If the answer is yes, the FLEX Post Supervisor will open a Request for Quotes for the proposed series and it will trade pursuant to the provisions of Amex Rule 904G, ''FLEX Trading Procedures and Principles.'' The liquidity requirement will help to ensure that there is not a proliferation of longer-term FLEX index options series where no interest in trading such options exists.

The Exchange margin requirements for the proposed longer term FLEX index options will be the same margin requirements that currently apply to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On September 17, 2004, the Amex filed Amendment No. 1 to the proposal. *See* letter from Laura M. Clare, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 16, 2004 (''Amendment No. 1''). Amendment No. 1 withdraws the Amex's request that the Commission waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii), 17 CFR 204.19b–4(f)(6)(iii).

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* Securities Exchange Act Release No. 46815 (November 12, 2002), 67 FR 69775 (November 19, 2002) (order approving File NO. SR–CBOE–2002–23).

existing FLEX index options (and other listed options). The margin that will be required for a purchase of the proposed FLEX index options in a margin account will be the same margin that is required for a purchase of other listed long-term options (options with more than nine months until expiration) and will be required to comply with the provisions of Amex Rule 462(d)(2)(D).

According to the Amex, the proposal will allow institutions to use longer-term FLEX index options to protect portfolios from long-term market moves with a known and limited cost. The Amex believes that the proposal will better serve the long-term hedging needs of institutional investors and provide those investors with an alternative to hedging their portfolios with off-exchange customized options and warrants.

By allowing for the extension of the maturity of FLEX index options to ten years in situations where there is demand for a longer-term expiration and where there is sufficient liquidity among FLEX index participating members to support the request, the Amex believes that the proposal will better serve the needs of the Amex's customers and members who make a market for such customers.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] As required under Rule 19b–4(f)(6)(iii), the Amex provided the Commission with written notice of its intention to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2004–73 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–Amex–2004–73. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal offices of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2004–73 and should be submitted on or before November 3, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–2576 Filed 10–12–04; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] The Commission considers the 60-day period within which the Commission may summarily abrogate the proposal under Section 19(b)(3)(C) of the Act to have commenced on September 17, 2004, the date the Amex filed Amendment No. 1 to the proposal.

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3635]

State of Florida (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective September 30, 2004, the above numbered declaration is hereby amended to include Alachua, Baker, Bradford, Charlotte, Citrus, Clay, Columbia, DeSoto, Dixie, Duval, Flagler, Gilchrist, Glades, Hamilton, Hendry, Jefferson, Lafayette, Levy, Madison, Manatee, Nassau, Putnam, Sarasota, St. Johns, Suwannee, Taylor, and Union as disaster areas due to damages caused by Hurricane Jeanne occurring on September 24, 2004 and continuing.

In addition, applications for economic injury loans from small businesses

located in the contiguous counties of Collier, Lee, Leon, and Wakulla in the State of Florida; and Brooks, Camden, Charleton, Clinch, Echols, Lowndes, Thomas, and Ware Counties in the State of Georgia may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have previously been declared. The economic injury disaster number assigned to Georgia is 9AE300.

All other information remains the same, i.e., the deadline for filing applications for physical damage is November 26, 2004 and for economic injury the deadline is June 27, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 6, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–22928 Filed 10–12–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3636]

State of New Jersey

As a result of the President's major disaster declaration on October 1, 2004, I find that Hunterdon, Mercer, Sussex, and Warren Counties in the State of New Jersey constitute a disaster area due to damages caused by Tropical Depression Ivan occurring on September 18, 2004, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 30, 2004 and for economic injury until the close of business on July 1, 2005 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303–1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Burlington, Middlesex, Monmouth, Morris, Passaic, and Somerset in the State of New Jersey; Orange County in the State of New York; and Bucks, Monroe, Northampton, and Pike Counties in the Commonwealth of Pennsylvania.

Mercer, Sussex, and Warren Counties in the State of New Jersey are also eligible under Public Assistance and our disaster loan program is available for private non-profit organizations that provide essential services of a governmental nature in those counties.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.375
Homeowners without credit available elsewhere	3.187
Businesses with credit available elsewhere	5.800
Businesses and non-profit organizations without credit available elsewhere	2.900
Others (including non-profit organizations) with credit available elsewhere	4.875
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.900

The number assigned to this disaster for physical damage is 363608. For economic injury the number is 9AD600 for New Jersey; 9AD700 for New York; and 9AD800 for Pennsylvania. The Public Assistance number assigned to New Jersey is P06108.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 5, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–22933 Filed 10–12–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3637]

State of New York

As a result of the President's major disaster declaration on October 1, 2004, I find that Broome, Chenango, Delaware, Orange, Sullivan, and Ulster Counties in the State of New York constitute a disaster area due to damages caused by Tropical Depression Ivan occurring on September 16–24, 2004. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 30, 2004 and for economic injury until the close of business on July 1, 2005 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303–1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Columbia, Cortland, Dutchess, Greene, Madison, Otsego, Putnam, Rockland, Schoharie, Tioga and Westchester in the State of New York; Passaic and Sussex Counties in the State of New Jersey; and Pike, Susquehanna, and Wayne Counties in the Commonwealth of Pennsylvania.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.375
Homeowners without credit available elsewhere	3.187
Businesses with credit available elsewhere	5.800
Businesses and non-profit organizations without credit available elsewhere	2.900
Others (including non-profit organizations) with credit available elsewhere	4.875
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.900

The number assigned to this disaster for physical damage is 363708. For economic injury the number is 9AD900 for New York; 9AE100 for New Jersey; and 9AE200 for Pennsylvania.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 5, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–22932 Filed 10–12–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3631]

State of Ohio (Amendment #2)

In accordance with notices received from the Department of Homeland Security ''Federal Emergency Management Agency ''effective September 27 and 29, 2004, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning August 27, 2004, and continuing through September 27, 2004. The declaration is also amended to include Athens, Gallia, Mahoning, Meigs, and Vinton Counties as disaster areas due to severe storms and flooding.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Jackson, Lawrence, and Ross in the State of Ohio; and Cabell, Jackson, and Mason Counties in the State of West Virginia may be filed until the specified date at the previously designated location. All other counties contiguous to the above

named primary counties have previously been declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 18, 2004 and for economic injury the deadline is June 20, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 6, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–22927 Filed 10–12–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the District of New Jersey, dated September 13, 2004, in Civil Action No. 91–510 (DRD), the United States Small Business Administration hereby revokes the license of Taroco Capital Corporation, a New York corporation, to function as a small business investment company under the Small Business Investment Company License No. 02/02–5318 issued to Taroco Capital Corporation on September 10, 1976 and said license is hereby declared null and void as of September 30, 2004.

Dated: October 5, 2004.

United States Small Business Administration.

Jeffrey D. Pierson,

Associate Administrator for Investment.

[FR Doc. 04–22934 Filed 10–12–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R405

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective October 1, 2004, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. The filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist economic injury disaster loan program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 419004, Sacramento, CA 95841–9004, 1–800–488–5323.

The interest rate for eligible small businesses is 4.000 percent. The number assigned for economic injury is R40500.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: October 5, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–22923 Filed 10–12–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R305

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective October 1, 2004, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. The filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist economic injury disaster loan program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Rd., Ft. Worth, TX 75155–2243, 1–800–366–6303.

The interest rate for eligible small businesses is 4.000 percent. The number assigned for economic injury is R30500.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: October 5, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–22924 Filed 10–12–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R205

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective October 1, 2004, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. The filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist economic injury disaster loan program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary

and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, 1–800–359–2227.

The interest rate for eligible small businesses is 4.000 percent. The number assigned for economic injury is R20500.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: October 5, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–22925 Filed 10–12–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R105

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective October 1, 2004, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. The filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist economic injury disaster loan program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303, 1–800–659–2955.

The interest rate for eligible small businesses is 4.000 percent. The number assigned for economic injury is R10500.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: October 5, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–22926 Filed 10–12–04; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4858]

Culturally Significant Objects Imported for Exhibition Determinations: ''Stubbs and the Horse''

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Stubbs and the Horse'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at The Kimbell Art Museum, Fort Worth, Texas, from on or about November 14, 2004 to on or about February 6, 2005, and at the Walters Art Museum, Baltimore, Maryland, from on or about March 13, 2005 to on or about May 29, 2005, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

For Further Information Contact: For further information, including a list of the exhibit objects, contact Wolodymyr R. Sulzynsky, the Office of the Legal Adviser, Department of State, (telephone: 202/619–5078). The address is: Department of State, SA–44, and 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: October 1, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–22936 Filed 10–12–04; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: Section 182 of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2242), requires the United States Trade Representative (USTR) to identify countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. Section 182 is commonly referred to as the ''Special 301'' provision of the Trade Act. In addition, USTR is required to determine which of those countries should be identified as Priority Foreign Countries. On May 3, 2004, USTR announced the results of the 2004 Special 301 review and stated that an Out-of-Cycle Review (OCR) would be conducted in the fall for Malaysia, Poland, and Taiwan. USTR requests written comments from the public concerning the acts, policies, and practices relevant for this review under section 182 of the Trade Act.

DATES: Submissions must be received on or before 12 noon on Friday, November 5, 2004.

ADDRESSES: Comments should be addressed to Sybia Harrison, Special Assistant to the Section 301 Committee, and sent (i) electronically, to *FR0436@ustr.gov*, with ''Special 301 Out-of-Cycle Review'' in the subject line, or (ii) by fax, to (202) 395–9458, with a confirmation copy sent electronically to the e-mail address above.

FOR FURTHER INFORMATION CONTACT: Brian Peck, Senior Director for Intellectual Property, (202) 395–6864; or

Stanford McCoy, Assistant General Counsel, (202) 395–3581, Office of the United States Trade Representative.

SUPPLEMENTARY INFORMATION: Pursuant to section 182 of the Trade Act, USTR must identify those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products may be identified as Priority Foreign Countries. Acts, policies, or practices that are the basis of a country's designation as a Priority Foreign Country are normally the subject of an investigation under the Section 301 provisions of the Trade Act.

On May 3, 2004, USTR announced the results of the 2004 Special 301 review, including an announcement that an Out-of-Cycle Review (OCR) would be conducted in the fall for Malaysia, Poland and Taiwan. Additional countries may also be reviewed as a result of the comments received pursuant to this notice, or as warranted by events.

Requirements for Comments: Comments should include a description of the problems experienced and the effect of the acts, policies, and practices on U.S. industry. Comments should be as detailed as possible and should provide all necessary information for assessing the effect of the acts, policies, and practices. Any comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses.

Comments must be in English. No submissions will be accepted via postal service mail. Documents should be submitted as either WordPerfect, MS Word, or text (.TXT) files. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel files. A submitter requesting that information contained in a comment be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. A non-confidential version of the comment must also be provided. For any document containing business confidential information, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the character ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter. Submissions should not include separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

All comments should be addressed to Sybia Harrison, Special Assistant to the Section 301 Committee, and sent (i) electronically, to *FR0436@ustr.gov*, with ''Special 301 Out-of-Cycle Review'' in the subject line, or (ii) by fax, to (202) 395–9458, with a confirmation copy sent electronically to the email address above.

Public Inspection of Submissions: Within one business day of receipt, non-confidential submissions will be placed in a public file open for inspection at the USTR reading room, Office of the United States Trade Representative, Annex Building, 1724 F Street, NW., Room 1, Washington, DC. An appointment to review the file must be scheduled at least 48 hours in advance and may be made by calling Jacqueline Caldwell at (202) 395–6186. The USTR reading room is open to the public from 10 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday.

Brian Peck,

Senior Director for Intellectual Property.

[FR Doc. 04–22901 Filed 10–12–04; 8:45 am]

BILLING CODE 3190–W5–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending October 1, 2004

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2004–19249.

Date Filed: September 29, 2004.

Parties: Members of the International Air Transport Association.

Subject:

PTC2 EUR 0584, PTC2 EUR–ME 0196, PTC2 EUR–AFR 0211

Dated 1 October 2004.

Mail Vote 413—Resolution 010y

Special Passenger Amending Resolution from Algeria.

Intended Effective Date: 18 November 2004.

Andrea M. Jenkins,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 04–22944 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of Three Current Public Collections of Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FAA invites public comment on three currently approved public information collections which will be submitted to OMB for renewal.

DATES: comments must be received on or before December 13, 2004.

ADDRESSES: Comments may be mailed or delivered to the FAA at the following address: Ms. Judy Street, Room 613, Federal Aviation Administration, Standards and Information Division, APF–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Street at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Therefore, the FAA solicits comments on the following current collections of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of the burden, the quality, utility, and clarity of the information to be collected, and possible ways to minimize the burden of the collection in preparation for submission to renew the clearances of the following information collections.

1. 2120–0005, General Operating and Flight Rules—FAR 91. Part A of Subtitle VII of the Revised Title 49 U.S.C. authorizes the issuance of regulations governing the use of navigable airspace. 14 CFR part 91 prescribes regulations governing the general operation and flight of aircraft. Information is collected to determine compliance. Respondents are individual airmen, State or local

governments, and businesses. The current estimated annual reporting burden is 231,064 hours.

2. 2120–0517, Airport Noise Compatibility Planning—14 CFR part 150. The respondents are those airport operators voluntarily submitting noise exposure maps and noise compatibility programs to the FAA for review and approval. FAA approval makes airport operators' noise compatibility programs eligible for discretionary grant funds set aside under the FAA Airport Improvement Program for that purpose. The current estimated annual reporting burden is 50,400 hours.

3. 2120–0675, 14 CFR part 139 Certification of Airports. This rule revises the current airport certification regulations and establishes certification requirements for airports serving scheduled air carrier operations in aircraft with 10–30 seats. The changes to 14 CFR part 139 result in additional information collections from respondents. The current estimated annual reporting burden is 52,993 hours.

Issued in Washington, DC, on October 5, 2004.

Judith D. Street,

FAA Information Collection Clearance Officer, APF–100.

[FR Doc. 04–22950 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for International Slots for the Summer 2005 Scheduling Season

AGENCY: Department of Transportation, FAA.

ACTION: Notice of submission deadline.

SUMMARY: This notice announces that the deadline for submitting requests for international slots at John F. Kennedy International Airport for allocation under 14 CFR 93.217 is October 25, 2004. Additionally, this notice announces that the FAA is changing the designation of Chicago O'Hare International Airport to a Schedules Facilitated Airport for all international arrivals for the Summer 2005 scheduling season.

DATES: Requests for international slots must be submitted no later than October 25, 2004.

ADDRESSES: Requests may be submitted by mail to Slot Administration Office, AGC–220 Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; facsimile: 202–267–7277; ARINC: DCAYAXD; e-mail address: *7–AWA–slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Lorelei Peter, Air Traffic and Operations Law Branch, Regulations Division, Office of the Chief Counsel, Federal Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number: 202–267–3073.

SUPPLEMENTARY INFORMATION: On October 1, 1999, the FAA amended the regulations governing takeoff and landing slots and slot allocation procedures at certain high Density Traffic Airports to provide the deadline for submission of requests for international slots will be published in a **Federal Register** notice for each scheduling season. The purpose of the amendment is for the FAA deadline for international slots requests to coincide with the International Air Transport Association deadline for submission of international requests. In accordance with this amendment, the FAA announces that the deadline for submitting requests for international slots for allocation under 14 CFR 93.217 is October 25, 2004.

In August 2004, the FAA took steps to address the congestion and delays at O'Hare as a result of persistent overscheduling of flights at O'Hare during peak hours. The FAA established a temporary limit on the number of scheduled arrivals at O'Hare by domestic operators during the peak hours of 7 a.m. through 8:59 p.m. beginning November 1, 2004, through April 30, 2005. While the FAA order limiting these operations did not include a limit on international flights by foreign flag operators, the FAA believes that it is beneficial to work with requesting carriers to accommodate their operations but to avoid capacity problems to the greatest extent practicable. To facilitate this process, the FAA is designating O'Hare as a Schedules Facilitated Airport, Level 2 (SFA) for Air Traffic Control/runway movements, as specified under the International Air Transport Association (IATA) Worldwide Scheduling Guidelines. (We note that IATA already lists O'hare as an SFA/Level 2 airport for international passenger flights at Terminal 5.) As an SFA, carriers operating to or intending to operate to this airport should submit their proposed schedules to the FAA in advance, so that voluntary solutions to capacity issues can be addressed. The FAA could request carriers to consider scheduling operations at less congested periods, as necessary. Carriers should provide their schedules to the Slot Administration Office using one of the various addresses provided in the **ADDRESSES** section above. The FAA will review all submitted schedules and individually advise carriers that there is capacity available to accommodate the operations or to request the carriers to schedule in less congested time periods.

Issued in Washington, DC on October 6, 2004.

Andrew B. Steinberg,

Chief Counsel.

[FR Doc. 04–22948 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 04–02–C–00–ROA To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Roanoke Regional Airport, Roanoke, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Roanoke Regional Airport (ROA) under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158). The FAA is changing the **Federal Register** Notice published Friday, October 1, 2004, to change the approve or disapprove date of the application, in whole or in part, no later than November 29, 2004. We are also changing the application number to identify this as ROAs' second application.

DATES: Comments must be received on or before November 12, 2004.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, Virginia 20166.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Jacqueline L. Shuck, Executive Director, Roanoke Regional Airport of the Roanoke Airport Commission at the following address: Roanoke Regional Airport Commission, 5202 Aviation Drive, Roanoke, Virginia 24012–1148.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the public agency full name under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Terry J. Page, Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, Virginia 20166; Telephone: 703–661–1354.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Roanoke Regional Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 31, 2004, the FAA determined that the application to impose, use the revenue from, impose and use the revenue from a PFC submitted by Roanoke Regional Airport Commission was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 29, 2004.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Eastern Region, 1 Aviation Plaza, Jamaica, New York 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Roanoke Regional Airport Commission.

Issued in Dulles, Virginia on September 23, 2004.

Terry J. Page,

Manager, Washington Airports District Office, Eastern Region.

[FR Doc. 04–22949 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–19291]

Notice of Receipt of Petition for Decision That Nonconforming 1993 Mercedes Benz 190E Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1993 Mercedes Benz 190E passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is November 12, 2004.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC (''JK''), of Baltimore, Maryland (Registered Importer RI–90–006) has petitioned NHTSA to decide whether nonconforming 1993 Mercedes Benz 190E passenger cars are eligible for importation into the United States. The vehicles which JK believes are substantially similar are 1993 Mercedes Benz 190E passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1993 Mercedes Benz 190E passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

JK submitted information with its petition intended to demonstrate that non-U.S. certified 1993 Mercedes Benz 190E passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1993 Mercedes Benz 190E passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof Panel Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hub Caps,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials*

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Installation of a U.S.-model instrument cluster.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Replacement of the following with U.S.-model components: (a) Headlamp assemblies; (b) front side marker lamps; (c) taillamp assemblies that incorporate rear side marker lamps; and (d) rear high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection:* Installation of U.S. version software and a supplemental warning buzzer to meet the requirements of this standard.

Standard No. 115 *Vehicle Identification:* Installation of a vehicle identification plate near the left windshield post to meet the requirements of this standard.

Standard No. 208 *Occupant Crash Protection:* Installation of a seat belt warning buzzer, wired to the seat belt latch. The petitioner also states that the vehicles are equipped with dual front air bags, knee bolsters, and combination lap and shoulder belts at the outboard front seating positions and with combination lap and shoulder belts at the outboard rear seating positions. These seat belts are self-tensioning and capable of being released by means of a single red push button.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 04–22953 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–19290]

Notice of Receipt of Petition for Decision That Nonconforming 2004 Rolls Royce Phantom Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2004 Rolls Royce Phantom passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2004 Rolls Royce Phantom passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is November 12, 2004.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Automobile Concepts, Inc. (''AMC''), of North Miami, Florida (Registered Importer 01–278) has petitioned NHTSA to decide whether nonconforming 2004 Rolls Royce Phantom passenger cars are eligible for importation into the United States. The vehicles which AMC believes are substantially similar are 2004 Rolls Royce Phantom passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2004 Rolls Royce Phantom passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

AMC submitted information with its petition intended to demonstrate that non-U.S. certified 2004 Rolls Royce Phantom passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2004 Rolls Royce Phantom passenger cars are identical to

their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 135 *Passenger Car Brake Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* 302 *Flammability of Interior Materials,* and 401 *Interior Trunk Release.*

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Installation of a U.S.-model instrument cluster. U.S. version software must also be downloaded to meet the requirements of this standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Inspection of all vehicles and replacement of any non U.S. model components required to meet the requirements of this standard with U.S.-model components.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection:* Installation of U.S.-version software, or installation of a supplemental key warning buzzer system to meet the requirements of this standard.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* Installation of U.S. version software to meet the requirements of this standard.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of U.S. version software to ensure that the seat belt warning system meets the requirements of this standard, and (b) inspection of all vehicles and replacement of any non-U.S.-model components necessary for conformity with this standard with U.S.-model components.

Petitioner states that the restraint systems used at the front outboard seating positions include airbags and knee bolsters as well as combination lap and shoulder belts at the front and rear designated seating positions. These seat belt systems are self-tensioning and release by means of a single red pushbutton.

Standard No. 209 *Seat Belt Assemblies:* Inspection of all vehicles and replacement of any non-U.S.-model seat belts with U.S.-model components on vehicles that are not already so equipped.

Standard No. 210 *Seat Belt Assembly Anchorages:* Inspection of all vehicles and replacement of any non-U.S.-model seat belt anchorages with U.S.-model components on vehicles that are not already so equipped.

Standard No. 301 *Fuel System Integrity:* Inspection of all vehicles and replacement of any non-U.S.-model fuel system components with U.S.-model components.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 04–22954 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–19122]

Notice of Receipt of Petition for Decision That Nonconforming 2004 Lamborghini Gallardo Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2004 Lamborghini Gallardo passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2004 Lamborghini Gallardo passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is November 12, 2004.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (volume 65, number 70; pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is

substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Automobile Concepts, Inc., (''AMC''), of North Miami, Florida (Registered Importer 01–278) has petitioned NHTSA to decide whether nonconforming 2004 Lamborghini Gallardo passenger cars are eligible for importation into the United States. The vehicles which AMC believes are substantially similar are 2004 Lamborghini Gallardo passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2004 Lamborghini Gallardo passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

AMC submitted information with its petition intended to demonstrate that non-U.S. certified 2004 Lamborghini Gallardo passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2004 Lamborghini Gallardo passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 135 *Passenger Car Brake Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* 302 *Flammability of Interior Materials,* and 401 *Interior Trunk Release.*

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Installation of a U.S.-model instrument cluster. U.S. version software must also be downloaded to meet the requirements of this standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Inspection of all vehicles and replacement of the following with U.S.-model components on vehicles not already so equipped: (a) Headlamp assemblies; and (b) rear side marker lamps that incorporate rear side-mounted reflex reflectors.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection:* Installation of U.S. version software to meet the requirements of this standard.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* Installation of U.S. version software, or installation of a supplemental relay system to meet the requirements of this standard.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of U.S. version software, or installation of a supplemental buzzer system to ensure that the seat belt warning system conforms to the requirements of this standard, and (b) inspection of all vehicles and replacement of any non U.S.-model components necessary to meet the requirements of this standard with U.S.-model components on vehicles that are not already so equipped.

Petitioner states that the restraint systems used at the front outboard seating positions include airbags and knee bolsters as well as combination lap and shoulder belts. These seat belt systems are self-tensioning and release by means of a single red pushbutton.

Standard No. 209 *Seat Belt Assemblies:* Inspection of all vehicles and replacement of any non-U.S.-model seat belts with U.S.-model components on vehicles that are not already so equipped.

Standard No. 210 *Seat Belt Assembly Anchorages:* Inspection of all vehicles and replacement of any non-U.S.-model seat belt anchorages with U.S.-model components on vehicles that are not already so equipped.

Standard No. 225 *Child Restraint Anchorage Systems:* Installation of U.S.-model child seat tether anchorage for the passenger seat.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 04–22952 Filed 10–12–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 5, 2004.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s)

may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW. Washington, DC 20220.

Dates: Written comments should be received on or before November 12, 2004 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1201.

Regulation Project Numbers: REG–152549–03 NPRM and Temporary; and PS–52–88 Final.

Type of Review: Extension.

Title: REG–152549–03 NPRM and Temporary: Section 179 Elections; and PS–52–88 Final: Election to Expense Certain Depreciable Business Assets.

Description: The regulations provide rules on the election described in section 179(b)(4); the apportionment of the dollar limitation among component members of a controlled group; the proper order for deducting the carryover of disallowed deduction; and the maintenance of information which permits the specific identification of each piece of section 179 property and reflects how and from whom such property was acquired and when such property was placed in service. The recordkeeping and reporting is necessary to monitor compliance with the section 179 rules.

Respondents: Business of other for-profit, Individuals or households, farms.

Estimated Number of Respondents/Recordkeepers: 4,035,000.

Estimated Burden Hours Respondent/Recordkeeper: 45 minutes.

Frequency of response: Annually, Other (once).

Estimated Total Reporting/Recordkeeping Burden: 3,022,500 hours.

Clearance Officer: Paul H. Finger, (202) 622–4078. Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 04–22916 Filed 10–12–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Committee to the Internal Revenue Service; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Information Reporting Program Advisory Committee (IRPAC) will hold a public meeting on Thursday, October 28, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Tilghman, National Public Liaison, CL:NPL:PAC, Room 7567 IR, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: 202–622–6440 (not a toll-free number). E-mail address: **public_liaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the IRPAC will be held on Thursday, October 28, 2004, from 9 a.m. to 4 p.m. in Room 3313, main Internal Revenue Service building, 1111 Constitution Avenue, NW., Washington, DC 20224. Issues to be discussed include: Federal State Cooperation; Mandatory Direct Rollovers-Section 401(a)(31)(B); Permanent Tax Reporting for Coverdell Education Savings Accounts; Tax Reporting of Retirement Accounts that are Closed due to the Customer Identification Program (CIP); Redesign and Simplification of Form 1065, K–1s, LLC and 2–D Bar Coding; Penalty Notices; Stock Option Deposits; Transcripts and Offsets. Reports from the four IRPAC sub-groups, Tax Exempt & Government Entities, Large and Mid-size Business, Small Business/Self-Employed, and Wage & Investment, will also be presented and discussed. Last minute agenda changes may preclude advance notice. The meeting room accommodates approximately 50 people, IRPAC members and Internal Revenue Service officials inclusive. Due to limited seating and security requirements, please call Jacqueline Tilghman to confirm your attendance. Ms. Tilghman can be reached at 202–622–6440. Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for purposes of security clearance. Please use the main entrance at 1111 Constitution Avenue to enter the building. Should you wish the IRPAC to consider a written statement, please call 202–622–6440, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:PAC, 1111 Constitution Avenue, NW., Room 7567 IR, Washington, DC 20224 or e-mail: **public_liaison@irs.gov.*

Dated: October 1, 2004.

J. Chris Neighbor,

Designated Federal Official Branch Chief, Liaison/Tax Forum Branch.

[FR Doc. 04–22955 Filed 10–12–04; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 69, No. 197

Wednesday, October 13, 2004

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARMTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 133

RIN 1505–AB51

Recordation of Copyrights and Enforcement Procedures To Prevent the Importation of Piratical Articles

Correction

In proposed rule document 04–22334 beginning on page 59562 in the issue of Tuesday, October 5, 2004, make the following correction:

On page 59562, in the third column, under the heading ''**DATES**'', in the second and third lines, ''November 4, 2005'' should read ''November 4, 2004''.

[FR Doc. C4–22334 Filed 10–12–04; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
October 13, 2004

Part II

Department of Homeland Security

8 CFR Part 214

Name Change From the Bureau of Citizenship and Immigration Services to U.S. Citizenship and Immigration Services and Adding Actuaries and Plant Pathologists; Notice

Adding Actuaries and Plant Pathologists to Appendix 1603.D.1 of the North American Free Trade Agreement; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Name Change From the Bureau of Citizenship and Immigration Services to U.S. Citizenship and Immigration Services

AGENCY: Department of Homeland Security.

ACTION: Notice.

SUMMARY: This Notice informs the public that the Department of Homeland Security (DHS) has changed the name of the Bureau of Citizenship and Immigration Services to U.S. Citizenship and Immigration Services (USCIS).

EFFECTIVE DATES: This Notice is effective October 13, 2004.

FOR FURTHER INFORMATION CONTACT: Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Washington, DC 20529, Telephone (202) 616–7600.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS) was established on Janurary 24, 2003, pursuant to the Homeland Security Act of 2002, Public Law 107–296 (HSA). DHS is the result of the reorganization of 22 Federal agencies, including the former Immigration and Naturalization Services (INS) from the Department of Justice (DOJ). Pursuant to section 451 of the HSA, the functions of the former INS were transferred from DOJ to DHS effective March 1, 2003, establishing among other DHS immigration components the Bureau of Citizenship and Immigration Services (BCIS). *See* 6 U.S.C. 451.

DHS has decided to change the name of this component from BCIS to U.S. Citizenship and Immigration Services (USCIS). Pursuant to section 872 (a)(2) of the HSA (6 U.S.C. 452(a)(2)), DHS is required to provide notice of the name change to appropriate congresional committees 60 days before the change will be effective. The Appropriate committees were notified of the name change on or before June 23, 2004. Therefore, pursuant to section 872 of the HSA, the change from BCIS to USCIS became official effective August 23, 2004.

This Notice informs the public that all official documents and future regulatory actions involving BCIS now will identify USCIS as the applicable DHS component, and all references to BCIS in existing documents and actions henceforth shall be construed as references to USCIS.

Dated: October 5, 2004.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 04–23010 Filed 10–12–04; 8:45 am]

BILLING CODE 4410–10–Py

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[CIS No. 2068–00]

RIN 1615–AA38

Adding Actuaries and Plant Pathologists to Appendix 1603.D.1 of the North American Free Trade Agreement

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Final rule.

SUMMARY: This final rule adopts without substantive change a proposed rule that was published in the **Federal Register** by the former Immigration and Naturalization Service (Service). This final rule amends the Department of Homeland Security's (Department's) regulations by adding Actuaries and Plant Pathologists to Appendix 1603.D.1 of the North American Free Trade Agreement (NAFTA) and by modifying the licensure requirements for Canadian citizens seeking admission to the United States as ''trade NAFTA'' (TN) nonimmigrant aliens. These amendments reflect the agreements made among the three parties to the NAFTA and will facilitate travel to and business in the United States. On March 1, 2003, the Service transferred from the Department of Justice to the Department, pursuant to the Homeland Security Act of 2002 (Pub. L. 107–296). Accordingly, the Service's adjudication function transferred to the U.S. Citizenship and Immigration Services (USCIS) of the Department.

DATES: This final rule is effective November 12, 2004.

FOR FURTHER INFORMATION CONTACT: Craig Howie, Staff Officer, Business and Trade Services Branch, Program and Regulations Development, U.S. Citizenship and Immigration Services, Department of Homeland Security, 425 I Street, NW., ULLICO Building, 3rd Floor, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION:

What Is NAFTA?

On December 17, 1992, the United States, Canada and Mexico signed NAFTA. NAFTA entered into force on January 1, 1994, creating one of the largest trading areas in the world. Besides trade, NAFTA allows for the temporary entry of qualified business persons from each of the parties to the agreement. NAFTA is comprised of 22 chapters. Chapter 16 of NAFTA is entitled ''Temporary Entry of Business Persons,'' and in addition to reflecting the preferential trading relationship between the parties to the agreement, it reflects the member nations' desire to facilitate temporary entry on a reciprocal basis. It also establishes procedures for temporary entry, addresses the need to ensure border security and seeks to protect the domestic labor force in the member nations.

Who Is a TN Nonimmigrant Alien?

A TN nonimmigrant alien is a citizen of Canada or Mexico who seeks admission to the United States, under the provisions of Section D of Annex 1603 of NAFTA, to engage in business activities at a professional level as provided for in the Annex. NAFTA parties have agreed that 63 occupations qualify as professions. These occupations are listed in the Appendix 1603.D.1 to Annex 1603 to the NAFTA found in 8 CFR 214.6(c). Canadian and Mexican citizens seeking to engage in occupations not included in Appendix 1603.D.1 to Annex 1603 are not eligible for classification as TN nonimmigrants.

What Changes Were Proposed in the Proposed Rule?

In the proposed rule published on December 19, 2000 at 65 FR 79320, the former Service proposed to add the occupation of actuary to the list of professions in Appendix 1603.D.1. In addition, the rule proposed to include plant pathologist to the Appendix 1603.D.1 as a footnote to the occupation of biologist. The former Service also proposed to change the licensure requirements for Canadian TN aliens applying for admission to the United States described at 8 CFR 214.6(e)(3)(ii)(F). The rule further proposed to remove 8 CFR 214.6(l), which relates to the transition period for Canadian citizens who were admitted to the United States under the United States-Canada Free Trade Agreement that existed before the effective date of NAFTA. The former Service also proposed to change all references to the Northern Service Center to the Nebraska Service Center to reflect the center's current name. Finally, the former Service proposed to remove the term ''diplomas, or certificates'' from 8 CFR 214.6(d)(2)(ii) and at 8 CFR 214.6(e)(3)(ii) since these regulatory cites are inconsistent with the footnotes to the Appendix.

Did the Former Service Receive Any Comments in Response to the Proposed Rule?

Yes, the former Service received 12 comments on the proposed rule. Seven of the comments dealt with the proposal that would add actuaries and plant pathologists to NAFTA and five comments related to the proposal to modify the licensure requirements for Canadian TN nonimmigrants. One of the comments addressing the proposed licensure requirements for Canadian TN nonimmigrants was actually a number of questions relating to the process that the former Service (now Department) uses to determine whether an alien has an appropriate license to practice in his or her occupation or profession. Since the questions posed in this comment letter do not directly relate to the proposed rule, this comment will not be discussed.

None of the comments addressed the technical changes that the former Service noted in the proposed rule. These technical changes include the removal from the regulations of the discussion of the transition period for Canadian citizens who were admitted to the United States under the former United States-Canada Free Trade Agreement, changing references to the ''Northern Service Center'' to ''Nebraska Service Center,'' and removal of the term ''diplomas, or certificates'' from 8 CFR 214.6(d)(2)(ii) and 8 CFR 214.6(e)(3)(ii) since these regulatory cites are inconsistent with the footnotes to the appendix. The Department published an interim final rule on March 10, 2004 (69 FR 11287) which implemented changes to the TN application process resulting from the sunset of some NAFTA requirements imposed on Mexican TN's. The changes in that interim final rule resolved the technical issues referenced above, and this rule finalizes the technical changes noted in the proposed rule.

What Were the Specific Comments That the Former Service Received Regarding the Proposed Change in the Licensure Requirements for Canadian TN's?

The former Service received four comments on this proposal. The American Nursing Association (ANA) stated that it was not supportive of the provision modifying the licensure requirement because it would allow unqualified Canadian nurses into the United States. The ANA argued that the removal of the requirement that a Canadian nurse have a United States license would undermine a provision that was designed to protect the United States public from unqualified health care workers.

Another commenter, a board member of the American Immigration Lawyers Association, argued that the proposal would create a distinction between the processing of Mexican and Canadian TN

nonimmigrant aliens. The commenter stated that the intended employer of a Mexican citizen is required to submit the alien's license with Form I–129, Petition for Nonimmigrant Worker, before the Mexican TN can be admitted to the United States. In the case of Canadian TN's, the license would never be presented to the Department.

The National Council of State Boards of Nursing (Council) also commented on the final rule and stated that it was opposed to the provision removing the licensure requirement for Canadian nonimmigrants. The Council asserted that the provision would allow Canadian citizens easy access to the United States labor market to work in their chosen profession as TN nonimmigrant aliens. However, the Council also suggested that employers in the United States would not employ these aliens in their profession but in similar or related occupations at a substandard salary. Finally, the Council argued that, in the case of nursing, the proposal would result in many American citizens being treated by unlicensed health care professionals.

The Commission on Graduates of Foreign Nursing Schools (CGFNS) also commented. CGFNS is an international authority on the education, registration, and licensure of nurses and foreign health care workers worldwide. CGFNS asserted that the implementation of the licensure proposal would result in the admission of Canadian healthcare workers to the United States without the appropriate license. CGFNS argued that these Canadian workers will not wait until they are licensed to seek employment and will begin to work in the United States healthcare system in any capacity they can find. Under the former Service's proposal, licensure verification would become the responsibility of the employer, not the government. CGFNS also stated in its comment that the requirement that a Canadian TN present his or her license at the time of admission is consistent with the NAFTA. Finally, CGFNS represented that there is substantial evidence that some Canadian TN's will have difficulty obtaining a United States nursing license and, as a result, the proposal will create a pool of unqualified health care workers who will be providing healthcare services to American consumers.

Why Did the Former Service Propose To Change the Licensure Requirements for Canadian TN Nonimmigrants?

To ensure that the former Service's regulations implementing Chapter 16 are in conformity with the obligations of the United States under the Agreement, the former Service proposed to remove 8 CFR 214.6(e)(3)(ii)(F). This provision requires the presentation of a license by a Canadian citizen as an entry requirement under the NAFTA.

What Is the Department's Response to the Comments Received Regarding the Proposal To Change the Licensure Requirements for Canadian TN Nonimmigrants?

The Department has reviewed the opinions expressed in the comments to the proposed rule. After careful consideration, the Department will adopt the proposal that removes the requirement that a Canadian TN must present a license at the time of application for admission to the United States.

As one of the regulatory agencies responsible for the administration of the immigration laws of the United States, the Department has a responsibility to ensure that its regulations are in agreement with existing laws, treaties, and agreements. In this instance, the requirement that a Canadian TN nonimmigrant alien present a United States license at the time of application for admission to the United is inconsistent with the NAFTA.

The Department disagrees with the CGFNS argument that requiring a state-issued license as a condition of admission is not in conflict with Chapter 16 of the NAFTA. As stated in the proposed rule, this regulatory change ensures that the Department's obligations under Chapter 16 are in conformity with the obligations of the United States under the NAFTA agreement.

The basic issue under consideration is whether a license is (1) an employment requirement, or (2) an entry plus employment requirement, for the Canadian professional desiring to work in the United States in TN status. Under the NAFTA, the requirements for entry as a professional are clearly spelled out and are noted in the list of educational credentials or alternative criteria found in Chapter 16. In select instances, a license is noted as an alternative document for entry, but not as a required primary document for entry. In no case is a license required by the prospective Canadian TN as the absolute primary documentary requirement for entry. For Canadian registered nurses, the primary group subject to comments made in response to the proposed rule, either a state-issued license or a Canadian provincial license is required as an entry document. Such documentation provide only for the entry of the prospective Canadian TN (provided that the individual is otherwise admissible).

The Department wishes to make clear that all Canadian TN nonimmigrants are subject to any individual state's licensure requirements. Granted, and in particular in the case of Canadian registered nurses, any such state licensure will most likely take place after entry. But, as we note above, the state license is not a mandatory documentary requirement for entry. States continue to maintain the ability to impose licensure requirements on any individual intending to work in the state.

The Department has taken special note of the comments that expressed concern that the change in the licensure requirement may have an adverse affect on the welfare of the United States. The Department is of the opinion that this rule will have no negative effect on the health and welfare of United States citizens. In those jurisdictions where a particular profession or occupation requires licensure, State or Federal law will continue to require the alien's employer to ensure that the alien has the proper license before the alien commences employment. In this regard, a Canadian TN alien will be treated in the same fashion as a United States worker. While this final rule will ensure that the Department will not require a Canadian TN to present a license to be admitted to the United States, the alien still will have to have a license to work in the United States consistent with Chapter 12 of NAFTA.

The change in the licensure requirement for Canadian TN nonimmigrant aliens does not result in different requirements between Mexican and Canadian TN nonimmigrant aliens. On March 10, 2004, the Department published an interim final rule in the **Federal Register** at 69 FR 11287 eliminating the numerical cap on Mexican TN nonimmigrants and eliminating the associated requirement of a petition for Mexican-based professionals. Prior to the March 10, 2004 effective date of this rule, Mexican TN nonimmigrant aliens were required to provide evidence of licensure as part of the petition process. Following elimination of the petition requirement on March 10, 2004, Mexican TN nonimmigrant aliens are no longer required to provide evidence of licensure as a prerequisite to admission to the United States. Thus, Mexican TN nonimmigrant aliens are treated the same as Canadian TN nonimmigrant aliens with respect to removal of the licensure requirement. Both Mexican and Canadian TN nonimmigrant aliens, however, must be reminded that State

and Federal law continue to control in regard to any licensure requirement as a condition of employment in the United States.

What Were the Specific Comments That the Former Service Received Regarding the Proposed Addition of Actuaries and Plant Pathologists to Appendix 1603.D.1 of the NAFTA?

The former Service received seven comments on the proposal to add actuaries and plant pathologists to the NAFTA. Of these comments, six agreed with the proposal and urged its adoption as written.

One commenter urged the former Service to broaden the possible qualifications for the TN category of actuary. This particular commenter, a private law firm, asked that the government consider other academic disciplines as being essentially equivalent to a degree in actuarial science.

The Department will not include this suggested change in this final rule as it is not consistent with the criteria agreed to by the three NAFTA parties to establish that an individual qualifies as an actuary. Therefore, the Department will adopt the proposed rule's language with one modification. In lieu of inserting the profession of Actuary into the body of Appendix 1603.D.1, a new footnote to the category of Mathematician will note that actuaries are included within the meaning of the term ''mathematician.'' As it is generally accepted that an actuary is in fact a type of mathematician, the Department finds that inclusion of the profession of actuary within the meaning of the term mathematician is an acceptable and non-significant modification to the language of the proposed rule.

The Department also notes that no comments were received regarding the proposal to add plant pathologists as a footnote to the category of biologists in Appendix 1603.D.1 to the NAFTA and the language of the proposed rule is adopted without change.

Regulatory Flexibility Act

The Department has reviewed this rule in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and, by approving it, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. While some employers may be considered small entities, this final rule will benefit United States employers by allowing certain aliens to transfer their professional skills to the United States and to work in their chosen occupation in the United States in a more expeditious fashion.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This final rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This final rule is considered by the Department to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

This final rule is intended to benefit various United States employers by amending the Department's regulations to add the professions of actuaries and plant pathologists to the list of viable NAFTA professional occupations. Indirectly, this final rule will benefit Canadian and Mexican actuaries and plant pathologists destined for employment in the United States, and, reciprocally, United States actuaries and plant pathologists destined for employment in either Canada or Mexico. The final rule imposes no new costs to the pre-existing filing fees for NAFTA professionals. Since this final rule provides a benefit to the public without producing any additional costs, the Department feels it is justified in issuing this final rule.

Executive Order 13132

This final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a rule. This final rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

■ Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note, and 1931 note, respectively; 8 CFR part 2.

■ 2. Section 214.6 is amended by:
■ a. Revising the section heading;
■ b. Redesignating footnotes 5 and 6 as footnotes 6 and 7, respectively;
■ c. Adding a new footnote 5 at the end of the occupation ''Mathematician'' in paragraph (c), Appendix 1603.D.1;
■ d. Adding footnote 8 at the end of the occupation ''Biologist'' in paragraph (c), Appendix 1603.D.1; and
■ e. Adding the text of new footnotes 5 and 8.

The revision and additions read as follows:

§ 214.6 Canadian and Mexican citizens seeking temporary entry to engage in business activities at a professional level.

* * * * *

(c)* * *

[5] The term ''Mathematician'' includes the profession of Actuary. An Actuary must satisfy the necessary requirements to be recognized as an actuary by a professional actuarial association or society. A professional actuarial association or society means a professional actuarial association or society operating in the territory of at least one of the Parties.

* * * * *

[8] The term ''Biologist'' includes the profession of Plant Pathologist.

Dated: October 6, 2004.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 04–23011 Filed 10–12–04; 8:45 am]

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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H.R. 1521/P.L. 108–313

Johnstown Flood National Memorial Boundary Adjustment Act of 2004 (Oct. 5, 2004; 118 Stat. 1196)

H.R. 1616/P.L. 108–314

Martin Luther King, Junior, National Historic Site Land Exchange Act (Oct. 5, 2004; 118 Stat. 1198)

H.R. 1648/P.L. 108–315

Carpinteria and Montecito Water Distribution Systems Conveyance Act of 2004 (Oct. 5, 2004; 118 Stat. 1200)

H.R. 1732/P.L. 108–316

To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes. (Oct. 5, 2004; 118 Stat. 1202)

H.R. 2696/P.L. 108–317

Southwest Forest Health and Wildfire Prevention Act of 2004 (Oct. 5, 2004; 118 Stat. 1204)

H.R. 3209/P.L. 108–318

To amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project. (Oct. 5, 2004; 118 Stat. 1211)

H.R. 3249/P.L. 108–319

To extend the term of the Forest Counties Payments Committee. (Oct. 5, 2004; 118 Stat. 1212)

H.R. 3389/P.L. 108–320

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations. (Oct. 5, 2004; 118 Stat. 1213)

H.R. 3768/P.L. 108–321

Timucuan Ecological and Historic Preserve Boundary Revision Act of 2004 (Oct. 5, 2004; 118 Stat. 1214)

S.J. Res. 41/P.L. 108–322

Commemorating the opening of the National Museum of the American Indian. (Oct. 5, 2004; 118 Stat. 1216)

H.R. 4654/P.L. 108–323

To reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes. (Oct. 6, 2004; 118 Stat. 1218)

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